

40.240 COLUMBIA RIVER GORGE NATIONAL SCENIC AREA DISTRICTS

ADMINISTRATION

40.240.010 PURPOSE AND AUTHORITY

The purpose of these regulations is to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge, and to protect and support the economy of the Columbia River Gorge by allowing future economic development in a manner that enhances the scenic, cultural, recreational, and natural resources of the Gorge. These regulations are intended to be consistent with and implement the Management Plan for the Columbia River Gorge National Scenic Area (CRGNSA) adopted and amended by the Columbia River Gorge Commission. These regulations shall only apply to lands within the Clark County area within the National Scenic Area. If the provisions of this chapter differ from state law then than the provisions of this chapter shall prevail. If conflicts occur between Chapter 40.240 and other Title 40 provisions, Chapter 40.240 shall prevail as to lands within the National Scenic Area, except when conflicts arise between buffer and/or riparian zone width requirements in Chapter 40.240 and Chapters 40.440 and 40.450, the broadest buffer and/or riparian zone width shall be required. The provisions of Chapter 40.240 shall provide the minimum protection of natural resources. Additional requirements providing greater levels of natural resources protection, pursuant to provisions of Chapters 40.440 and 40.450 shall be imposed.

A. 40.240.020 Area Affected.

1. Chapter 40.240 shall:

- a. Apply to all lands in Clark County, Washington within the Columbia River Gorge National Scenic Area as designated by the Columbia River Gorge National Scenic Area Act as may be amended;
- b. Apply to all unincorporated lands within the Scenic Area; and
- c. Be applied by Clark County to the Scenic Area within incorporated lands where authorized by state or federal law. Administration and enforcement of these incorporated areas may be subject to inter-local agreement between Clark County and the City of Washougal.

2. Those portions of Chapter 40.240 and any amendments thereto pertaining to the General Management Area (GMA) become effective once the Columbia River Gorge Commission finds it consistent with the Management Plan for the CRGNSA. Those portions of Chapter 40.240 and any amendments thereto pertaining to the Special Management Area (SMA) become effective when the Secretary of Agriculture concurs on the ordinances adopted by Clark County.

B. 40.240.030 Review and approval required.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged, including those proposed by state or federal agencies, in the Clark County portion of the Columbia River Gorge National Scenic Area except for the uses listed in this chapter, when considered under the applicable procedural and substantive guidelines of this chapter.

C. Uniform Application of Management Plan.

1. The Management Plan shall be applied consistent with and in the spirit of the National Scenic Area Act.
2. The Gorge Commission, Forest Service, and counties should strive to apply Management Plan provisions uniformly throughout the National Scenic Area, except when a county has adopted a more restrictive provision.
3. In applying provisions of the Management Plan, the Gorge Commission and Forest Service may consider, but shall not be constrained by, county interpretations, state interpretation and application of state law and administrative regulations, or judicial decisions that do not directly involve the Management Plan.

1 **40.240.020 ~~40.240.040~~ COMPREHENSIVE PLAN AND ZONING DESIGNATIONS**

2 A. All lands within the Clark County area lying within the Columbia River Gorge National Scenic Area
3 shall carry a zoning map designation, and identical Comprehensive Plan map designation of one of
4 the following categories, as delineated on the adopted Clark County Columbia River Gorge National
5 Scenic Area Zoning and Comprehensive Plan maps:

- 6 1. General Management Area (GMA):
7 a. Gorge Large-Scale Agriculture 80 (GLSA-80);
8 b. Gorge Large-Scale Agriculture 40 (GLSA-40);
9 c. Gorge Small-Scale Agriculture 20 (GSSA-20);
10 d. Gorge Small Woodland 20 (GSW-20);
11 e. Gorge Small Woodland 40 (GSW-40);
12 f. Gorge Open Space (GOS);
13 g. Gorge Residential 5 (GR-5);
14 h. Gorge Residential 10 (GR-10); or
15 i. Gorge Public Recreation (GPR).
16 2. Special Management Area (SMA):
17 a. Gorge SMA Agriculture (GSAG);
18 b. Gorge SMA Forest (GSFF); or
19 c. Gorge SMA Open Space (GSOS).

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21 In addition, Columbia River Gorge National Scenic Area Management Plan maps for Landscape Settings
22 and Recreation Intensity Classes shall be used for limited regulatory purposes where referred to in this
23 chapter. All maps listed shall be made available at the offices of the Clark County Department of
24 Community Development in Vancouver, Washington, and the Columbia River Gorge Commission in
25 White Salmon, Washington.
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28 **40.240.030 ~~40.240.050~~ AMENDMENTS TO THIS SECTION**

29 Clark County may initiate and complete changes to this chapter or associated map designations as
30 follows, to be reviewed under procedures specified under Chapter 40.500:
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- 32 A. Scrivener errors, spelling and numbering corrections may be undertaken administratively by county
33 staff.
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35 B. Minor textual alterations may be undertaken by Clark County through a Type IV legislative action
36 under Section 40.510.040 upon a finding that such changes are consistent with the CRGNSA
37 General Management Plan. Such alterations shall require subsequent approval by the Columbia
38 River Gorge Commission, and the U.S. Secretary of Agriculture for alterations in the SMA, before
39 taking effect.
40
41 C. Minor and major textual and map alterations may be undertaken by Clark County through a Type IV
42 legislative action under Section 40.510.040 in response to changes in the CRGNSA General
43 Management Plan and/or other actions by the Columbia River Gorge Commission authorizing such
44 alterations.
45
46 D. Individuals seeking major textual and map changes requiring a change to the General Management
47 Plan are encouraged to contact the Columbia River Gorge Commission to complete such changes
48 before seeking corresponding changes within this chapter. Any changes to the zoning maps
49 designations shall require corresponding changes to the Comprehensive Plan map, and shall be
50 considered major changes.
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40.240.040 40.240.060 DEFINITIONS

As used in this chapter, unless otherwise noted, the following words and their derivations shall have the following meanings. The definitions do not apply to areas of Clark County outside of the Columbia River Gorge National Scenic Area.

Accepted agricultural practice	<u>"Accepted agricultural practice" means a mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.</u>
Accessory structure/building	<u>"Accessory structure/building" means a structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term "detached" means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.</u>
Active wildlife site	<u>"Active wildlife site" means a wildlife site that has been used within the past five (5) years by a sensitive wildlife species.</u>
Addition	<u>"Addition" means an extension or increase in the area or height of an existing building.</u>
Agency official	<u>"Agency official" means the federal, state, or local agency head or designee who has authority over a proposed project.</u>
Agricultural specialist (SMA)	<u>"Agricultural specialist (SMA)" means a person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.</u>
Agricultural structure/building	<u>"Agricultural structure/building" means a structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.</u>
Agricultural use	<p><u>"Agricultural use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:</u></p> <ul style="list-style-type: none"> • The operation or use of farmland subject to any agriculture-related government program. • Land lying fallow for one (1) year as a normal and regular requirement of good agricultural husbandry. • Land planted in orchards or other perennials prior to maturity. • Land under buildings supporting accepted agricultural practices. Agricultural use does not include livestock feedlots. <p><u>Agricultural use does not include livestock feedlots.</u></p>
Anadromous fish	<u>"Anadromous fish" means species of fish that migrates upstream to freshwater after spending part of their life in the ocean saltwater.</u>
Anaerobic	<u>"Anaerobic" means a condition in which molecular oxygen is absent (or effectively so) from the environment.</u>
Aquaculture	<u>"Aquaculture" means the cultivation, maintenance, and harvesting of aquatic species.</u>

Aquatic area	<u>“Aquatic area” means</u> the water area of a stream, pond, or lake measured at the ordinary high water mark.
Archaeological resource	See cultural resource.
Archival research	<u>“Archival research” means</u> research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.
Bed and breakfast inn	<u>“Bed and breakfast inn” means</u> an establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.
Best management practices	<u>“Best management practices” means</u> conservation techniques and management measures that: <ul style="list-style-type: none"> • Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; • Minimize adverse effects to groundwater and surface-water flow and circulation patterns; and • Maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.
Biodiversity (SMA)	<u>“Biodiversity (SMA)” means</u> a diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.
Boat landing	<u>“Boat landing” means</u> a Cleared area or developed structure used to facilitate launching or retrieving watercraft.
Buffer zone	<u>“Buffer zone” means</u> an area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.
Building	<u>“Building” means</u> any structure used or intended for supporting or sheltering any use or occupancy. <u>Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.</u>
Camping or recreational vehicle	<u>“Camping or recreational vehicle” means</u> a vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit and subject to review for consistency with this chapter if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than <u>sixty (60) days</u> in any consecutive <u>twelve- (12-) month period</u> .
Campsite	<u>“Campsite” means</u> a single camping unit that usually <u>consistings</u> of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.
Capability	<u>“Capability” means</u> the ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.
Canopy closure (SMA)	<u>“Canopy closure (SMA)” means, for forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.</u>
Cascadian architecture (SMA)	<u>“Cascadian architecture (SMA)” means</u> architectural style using native rockwork, large timber, and steeply pitched roofs in a rustic manner.
Catastrophic	<u>“Catastrophic situations (SMA)” means</u> forces such as fire, insect and disease

situations (SMA)	infestations, and earth movements.
Childcare center	<p><u>"Childcare center"</u> means a facility providing daycare to three or more children, but not including:</p> <ul style="list-style-type: none"> • The provision of care that is primarily educational, unless provided to a preschool child for more than <u>four (4)</u> hours a day. • The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion. • The provision of short-term care related to or associated with group athletic or social activities. • The provision of daycare in the provider's home in the family living quarters for less than <u>thirteen (13)</u> children.
Clear-cut	A created opening of one acre or more
Columbia River Gorge National Scenic Area Graphic Signing System	<u>"Columbia River Gorge National Scenic Area Graphic Signing System"</u> means sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.
Commercial development/ use	<u>"Commercial development / use"</u> means any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.
Commercial forest products	<u>"Commercial forest products"</u> means forest products These including timber for lumber, pulp, and firewood for commercial purposes.
Commercial recreation	<u>"Commercial recreation"</u> means any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.
Community facility	<u>"Community facility"</u> means basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.
Consulting parties (cultural resources)	<u>"Consulting parties (cultural resources)"</u> means organizations or individuals who submit substantive written comments to the Development Review Officer in a timely manner because they are concerned with the effects of a proposed use on cultural resources.
Contiguous land	<u>"Contiguous land"</u> means parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.
Counties	<u>"Counties"</u> means the six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.
Created opening (SMA)	<u>"Created opening (SMA)"</u> means a created forest opening with less than <u>forty percent (40%) average canopy closure of overstory trees and less than sixty percent (60%) average canopy closure of understory trees averaging less than five (5) inches diameter at breast height for coniferous forests and less than twenty-five percent (25%) total canopy cover for oak woodlands.</u> This definition does not include agricultural fields.
Creation (wetlands)	<u>"Creation (wetlands)"</u> means a human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (<u>one hundred to two hundred (100 to 200) years</u>)).
Cultivation	<u>"Cultivation"</u> means any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

Cultural resource	<p><u>“Cultural resource” means</u> evidence of human occupation or activity that is are important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Archaeological resources. Physical evidence or ruins of human occupation or activity that is located on or below the surface of the ground and are at least <u>fifty (50)</u> years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs, and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil-making activities; and graves, human remains, and associated artifacts. • Historic buildings and structures. Standing or above-ground buildings and structures that are at least <u>fifty (50)</u> years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels. • Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history, a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.
Cumulative effects	<u>“Cumulative effects” means</u> the combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.
Cut	<u>“Cut” means</u> an area where soil or earth is excavated or removed in conjunction with development activities.
Days	<u>“Days” means</u> calendar days, including weekends and holidays.
Days, working	<u>“Days working” means</u> days, during which Clark County Department of Community Development offices are open to the public, excluding weekends and holidays.
Dedicated site	<u>“Dedicated site” means</u> an area actively devoted to the current use and as delineated on the site plan.
Deer and elk winter range	<u>“Deer and elk winter range” means</u> areas normally used, or capable of being used, by deer and elk from December through April.
Destruction of wetlands	<u>“Destruction of wetlands” means</u> loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.
Developed recreation	<u>“Developed recreation” means</u> recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.
<u>Developed Road Prism (SMA)</u>	<u>“Developed Road Prism (SMA)” means</u> the area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.
Development	<u>“Development” means</u> any land division or structure, including but not limited to, new construction of buildings and structures, and mining, dredging, filling, grading,

	paving, and excavation.
Diameter at breast height (dbh)	<u>"Diameter at breast height (dbh)" means the diameter of a tree as measured at breast height.</u>
Duplex	<u>"Duplex" means a building containing two dwelling units and designed for occupancy by two families.</u>
Dwelling, single-family	<u>"Dwelling, single family" means a detached building containing one dwelling unit and designed for occupancy by one family only.</u>
Dwelling unit	<u>"Dwelling unit" means a single unit designed for occupancy by one family and having not more than one cooking area or kitchen.</u>
Earth Materials	<u>"Earth materials" means any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g. cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).</u>
Effect on treaty rights	<u>"Effect on treaty rights" means to bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.</u>
Emergency / Disaster	<u>"Emergency/Disaster" means a sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damaged to life, health, property, essential public services, or the environment.</u>
Emergency / Disaster Response	<u>"Emergency/Disaster Response" means actions involving any development or vegetation removal that must be taken immediately in response to an emergency/disaster event. Emergency/disaster response actions that do not involve any structural development or ground-disturbance activities are not included in this definition.</u>
Endemic	<u>"Endemic" means plant and animal species that are found only in the vicinity of the Columbia River Gorge area.</u>
Enhancement (natural resources)	<u>"Enhancement (natural resources)" means a human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.</u>
Ephemeral streams (SMA)	<u>"Ephemeral streams (SMA)" means streams that contain flowing water only during, and for a short duration after, precipitation events</u>
Ethnography	<u>"Ethnography" means the descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.</u>
Existing use or structure	<u>"Existing use or structure" means any use or structure that was legally established.</u> <u>"Legally established" means:</u> <ul style="list-style-type: none"> • <u>the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure;</u> • <u>the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and</u> • <u>any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at</u>

	<p><u>the time the change was established.</u></p> <p>A legally established use that existed before the effective date of the Scenic Area Act, the Management Plan, or a land use ordinance established pursuant to the Scenic Area Act. "Legally established" means established in accordance with the law in effect at the time of the establishment of the use.</p>
Exploration, development (extraction and excavation), and production of mineral resources	<p><u>"Exploration, development (extraction and excavation), and production of mineral resources" means includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants is considered industrial uses. Exploration of mineral resources means removal of minerals for informational and testing purposes, with no marketing of materials. Development (extraction and excavation) means removal, typically in larger volumes, of minerals for the purpose of marketing and/or production. Production of mineral resources means the portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants is considered industrial use and not mineral development or production.</u></p>
<u>Finished grade</u>	<p><u>"Finished grade" means the final elevation of the ground level of a property after construction is completed.</u></p>
Fill	<p><u>"Fill" means the placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.</u></p>
Fire break	<p><u>"Fire break" means a break in ground cover fuels, adjacent to and surrounding buildings.</u></p>
<u>Footprint</u>	<p><u>"Footprint" means the area that falls directly beneath and shares the same perimeter as a structure.</u></p>
Forbs	<p><u>"Forbs" means broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grass-like plants.</u></p>
Foreground (SMA)	<p><u>"Foreground (SMA)" means one-half mile on either side of a traveled road or trail.</u></p>
<u>Forest Health (SMA)</u>	<p><u>"Forest Health (SMA)" means a measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.</u></p>
<u>Forest practice (SMA)</u>	<p><u>"Forest practice (SMA)" means any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of twelve (12) years or less are considered agricultural uses.</u></p>
Forest products	<p>Commodities produced from a forest, including but not limited to timber products, boughs, mushrooms, pine cones and huckleberries.</p>
Forest practices	<p><u>"Forest practices (GMA)" means those activities related to the growing and</u></p>

(GMA)	harvesting of forest tree species, as defined by the Washington Forest Practices Act.
Forest products	<u>"Forest products"</u> means commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
Forest Stand Structure (SMA)	<u>"Forest Stand Structure (SMA)"</u> means the number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.
Forest use	<u>"Forest use"</u> means the growing, propagation, and harvesting of forest tree species and other forest products.
Fully screened	<u>"Fully screened"</u> means a description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).
Grade (ground level)	<u>"Grade (ground level)"</u> means the average elevation of the finished ground elevation as defined by the International Uniform Building Code.
Grading	<u>"Grading"</u> means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.
Hazard Tree (SMA)	<u>"Hazard tree"</u> means a tree with a structural defect that will predictably result in whole or partial failure within one-and-one-half (1.5) tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.
Height of building	<u>"Height of building"</u> means the greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof. The vertical distance from the ground to the highest point on the roof.
Herbaceous	<u>"Herbaceous"</u> means a plant with no persistent woody stem above the ground, with characteristics of an herb.
Herbs	<u>"Herbs"</u> means non-woody (herbaceous) plants, including grasses and grass-like plants, forbs, ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than <u>three (3)</u> feet tall shall be considered part of the herbaceous layer.)
Historic buildings and structures	See cultural resource.
Historic survey	<u>"Historic survey"</u> means actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.
Home Occupation	<u>"Home occupation"</u> means small scale professional or vocational activities conducted on non-commercial properties in a manner which does not detract from residential or resource characteristics of the surrounding area. Under this chapter, home occupations shall be consistent in definition and usage with the Scenic Area Management Plan provisions for cottage industries and home occupations.
Horses, boarding of	<u>"Horses, boarding of"</u> means the stabling, feeding, and grooming for a fee, or the renting of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks.
Hydric soil	<u>"Hydric soil"</u> means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
In-lieu sites	<u>"In-lieu sites"</u> means sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, 401. Additional in-lieu sites will be provided for.

Indian tribal government	<u>“Indian tribal government” means</u> the governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakima Indian Nation (Tribal Council).
Indian tribes	<u>“Indian tribes” means</u> the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.
Industrial uses	<u>“Industrial uses” means</u> any use of land or water primarily involved in: <ul style="list-style-type: none"> • Assembly or manufacture of goods or products; • Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit; • Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service; or • Production of electric power for commercial purposes.
Interpretive displays	<u>“Interpretive displays” means</u> signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.
Key components	<u>“Key components” means</u> the attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.
Key viewing areas	<u>“Key viewing areas” means</u> those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include: <ul style="list-style-type: none"> • Historic Columbia River Highway; • Crown Point; • Highway 1-84, including rest stops; • Multnomah Falls; • Washington State Route 14; • Beacon Rock; • Panorama Point Park; • Cape Horn; • Dog Mountain Trail; • Cook-Underwood Road; • Rowena Plateau and Nature Conservancy Viewpoint; • Portland Women's Forum State Park; • Bridal Veil State Park; • Larch Mountain; • Rooster Rock State Park; • Bonneville Darn Visitor Centers; • Columbia River; • Washington State Route 141; • Washington State Route 142; • Oregon Highway 35; • Sandy River; and • Pacific Crest Trail. <u>In the SMA only:</u> <ul style="list-style-type: none"> • Old Washington State Route 14 (County Road 1230); • Wyeth Bench Road; • Larch Mountain Road; and

	<ul style="list-style-type: none"> • Sherrard Point on Larch Mountain.
Land division	“Land division” means the division or re-division of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.
Landscape setting	“Landscape setting” means the combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.
Livestock feedlot	“Livestock feedlot” means stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.
Lot line adjustment	“Lot line adjustment” means <u>relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels. transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.</u>
Maintenance	“Maintenance” means ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.
Management plan	“Management plan” means the document entitled Management Plan for the Columbia River Gorge National Scenic Area adopted October 14, 1991 and updated April 9, 2004. The Management Plan becomes effective upon approval of land use ordinances by the Commission for the General Management Area and concurrence of land use ordinances by the Secretary of Agriculture for the Special Management Area.
Mitigation	<p>“Mitigation” means the use of any or all of the following actions:</p> <ul style="list-style-type: none"> • Avoiding the impact altogether by not taking a certain action or parts of an Action; • Minimizing impacts by limiting the degree or magnitude of the action and its implementation; • Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; or • Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
Mosaic (SMA)	“Mosaic (SMA)” means the dispersal of over-story and under-story leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.
Multifamily dwelling	“Multifamily dwelling” means a dwelling constructed or modified into two or more single-family units.
Native species	“Native species” means species that naturally inhabit an area.
Natural grade	“Natural grade” means the undisturbed elevation of the ground level of a property before any excavation or construction operations.
Natural resources	“Natural resources” means naturally occurring features including land, water, air, plants, animals (including fish), plant and animal habitat, and scenery.
Natural resource specialist	“Natural resource specialist” means a person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.
Natural resource-based recreation (SMA)	“Natural resource-based recreation (SMA)” means recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and

	windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.
Nonprofit organization	<u>“Non-profit organization” means an organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.</u>
<u>Not Visually Evident (SMA)</u>	<u>“Not visually evident” means a visual-quality-standard that provides for development or uses that is not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.</u>
Old growth	<u>“Old growth” means a forest stand usually at least one-hundred eighty to two-hundred twenty (180-220) years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large over-story trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.</u> Any stand of trees ten(10) acres or greater generally containing the following characteristics: Contain mature and over-mature trees on the overstory and are well into the mature growth state; In coniferous forests, will usually contain a multilayered canopy and trees of several age classes; In coniferous forests, standing dead trees and down material are present; and Evidence of man’s activities may be present, but does not significantly alter the other characteristics and would be a subordinate factor in description of such a stand.
<u>Operational (SMA)</u>	<u>“Operational (SMA)” means for new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.</u>
Open Spaces	<u>“Open spaces” means unimproved lands not designated as agricultural lands or forest lands by the Management Plan and designated as open space by the Management Plan. Open spaces include:</u> <ul style="list-style-type: none"> • Scenic, cultural, and historic areas, • Fish and wildlife habitat; • Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts; • Ecologically and scientifically significant natural areas; • Outstanding scenic views and sites; • Water areas and wetlands; • Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant; • Potential and existing recreation resources; and • Federal and state wild, scenic, and recreation waterways.
Ordinary high water mark	<u>“Ordinary high water mark” means the mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.</u>
<u>Other related major structure (SMA)</u>	<u>“Other related major structure” means a structure related to a dwelling on a parcel in the SMA that is less than forty (40) acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of “accessory building” is not an “other related major structure” or a</u>

	<u>"major development action."</u>
<u>Overstory (SMA)</u>	<u>"Overstory (SMA)" means for forest practices, the tall or mature trees that rise above the shorter or immature understory trees.</u>
<u>Parcel</u>	<p><u>"Parcel" means:</u></p> <ul style="list-style-type: none"> • <u>Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in Section 40.240.390 shall not be considered a parcel.</u> • <u>Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 17, 1986.</u> • <u>A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.</u> <p><u>A unit of land shall not be considered a separate parcel simply because the subject tract of land:</u></p> <ul style="list-style-type: none"> • <u>Is a unit of land solely created to establish a separate tax account;</u> • <u>Lies in different counties;</u> • <u>Lies in different sections or government lots;</u> • <u>Lies in different land use or zoning designations; or</u> • <u>Is dissected by a public or private road.</u>
<u>Partial retention</u>	A visual quality objective that provides for management activities that may be evident but must remain visually subordinate to the characteristic landscape. Activities may repeat form, line, color, or texture common to the characteristic landscape, but changes in their qualities of size, amount, intensity, direction, pattern, etc. shall remain visually subordinate to the characteristic landscape.
<u>Practicable</u>	<u>"Practicable" means able to be done, considering technology and cost.</u>
<u>Preexisting</u>	<u>"Pre-existing" means existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.</u>
<u>Previously disturbed</u>	<u>"Previously disturbed" means an area of land where the natural surface has been graded, excavated, paved and/or graveled.</u>
<u>Primarily</u>	<u>"Primarily" means a clear majority as measured by volume, weight, or value.</u>
<u>Project area</u>	<u>"Project area" means the geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.</u>
<u>Public use facility</u>	<u>"Public use facility" means recreation development(s) that meet the definition of "recreation facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.</u>
<u>Rare plant species</u>	<u>"Rare plant species" means used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.</u>
<u>Recreation facility</u>	<u>"Recreation facility" means a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than one-quarter- (1/4-) mile of land that does not contain any such developments or improvements, except for roads and/or pathways.</u>
<u>Reconnaissance survey</u>	<u>"Reconnaissance survey" means actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys,</u>

	subsurface testing, and ethnographic research.
Recreation Opportunity Spectrum (ROS)	<p><u>"Recreation Opportunity Spectrum (ROS)" means</u> a means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).</p> <ul style="list-style-type: none"> • Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified. • Semi-primitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting. • Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident. • Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications. • Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape. • Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.
Recreation resources	<u>"Recreation resources" means</u> areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.
<u>Regularly maintained</u>	<p><u>"Regularly maintained" means</u> an area of land that has been previously disturbed and where periodic actions have been taken to:</p> <ul style="list-style-type: none"> • <u>keep the area clear of vegetation (e.g., shoulders, utility yards);</u> • <u>limit the height and type of vegetation (e.g. utility rights-of-way); and/or</u> • <u>establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).</u>
Rehabilitation (natural resources)	<u>"Rehabilitation (natural resources)" means</u> a human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.
Remnant old forest (SMA)	<u>"Remnant old forest (SMA)" means</u> large trees in the overstory that are well into the mature growth state (older than one-hundred eighty (180) years).
Repair and maintenance	<p><u>"Repair" means</u> replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.</p> <p>An activity that restores the size, scope, configuration, and design of a serviceable structure to its previously authorized and undamaged condition. Activities that change the size, scope, and configuration of a structure beyond its original design are not included in this definition.</p>
Resource-based recreation	<u>"Resource-based recreation" means</u> those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.
Responsible official	<u>"Responsible official" means</u> the director of the department of Community Development of Clark County or the director's authorized designate. The responsible official is responsible for the administration, interpretation and

	implementation of this chapter.
Restoration	<u>"Restoration"</u> means a human activity that returns a resource from a disturbed or altered condition to a previous, less disturbed or less altered condition. This definition does not modify or eliminate the Management Plan definition of restoration applicable only to wetlands.
Restoration (wetlands)	<u>"Restoration (wetlands)"</u> means a human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.
Retention	A visual quality objective that provides for management activities that are not visually evident to the casual visitor. Management activities may only repeat form, line, color, and texture that are frequently found in the characteristic landscape. Changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be evident.
Review uses	<u>"Review uses"</u> means proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.
Riparian area	<u>"Riparian area"</u> means the area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.
Road	<u>"Road"</u> means the entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to: <ul style="list-style-type: none"> • Ways described as streets, highways, throughways, or alleys. • Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures. • Structures that provide for continuity of the right-of-way, such as bridges.
Scenic Area	<u>"Scenic Area"</u> means the Columbia River Gorge National Scenic Area.
Scenic travel corridor	<u>"Scenic travel corridor"</u> means those portions of Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.
Secretary	<u>"Secretary"</u> means the Secretary of Agriculture.
Sensitive plant species	<u>"Sensitive plant species"</u> means plant species that are: <ul style="list-style-type: none"> • endemic to the Columbia River Gorge and vicinity; • listed as endangered or threatened pursuant to federal or state endangered species acts; or • listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program. <p>In the Special Management Area, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.</p>
Sensitive wildlife species	<u>"Sensitive wildlife species"</u> means animal species that are: <ul style="list-style-type: none"> • listed as endangered or threatened pursuant to federal or state endangered species acts; • listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission; or • considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat golden eagle, and prairie falcon.

	In the Special Management Area, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.
Service station	<u>"Service station"</u> means a business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
Serviceable	<u>"Serviceable"</u> means presently useable.
Shall	<u>"Shall"</u> means action is mandatory.
Should	<u>"Should"</u> means action is encouraged.
Shrub	<u>"Shrub"</u> means a woody plant usually greater than <u>three (3)</u> feet but less than <u>twenty (20)</u> feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than <u>three (3)</u> feet tall shall be considered part of the herbaceous layer.)
Sign	<u>"Sign"</u> means any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
Significant cultural resource (SMA)	<u>"Significant cultural resource (SMA)"</u> means a cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)
Skyline	<u>"Skyline"</u> means the line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.
Soil Capability Class	<u>"Soil Capability Class"</u> means a classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
Special habitat area	<u>"Special habitat area"</u> means wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.
Special streams	<u>"Special streams"</u> means streams that are primary water supplies for fish hatcheries and rearing ponds.
Stand	<u>"Stand"</u> means a group of trees possessing uniformity in regard to type, age, vigor, or size.
Story	<u>"Story"</u> means a single floor level of a structure, as defined by the <u>International Uniform Building Code</u> .
Streams	<u>"Streams"</u> means areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, <u>springs</u> , and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

	For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.
Structure	<u>"Structure" means</u> that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.
Subsurface testing	<u>"Subsurface testing" means</u> any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.
<u>Submit</u>	<u>"Submit" means</u> to deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or e-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.
Suitability	<u>"Suitability" means</u> the appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources, compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.
<u>Thinning (SMA)</u>	<u>"Thinning (SMA)" means</u> a forest practice intended to create erate favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the over-story layer is zero or less than forty percent (40%) and the under-story layer is less than sixty percent (60%) average canopy closure of trees averaging less than five (5) inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than twenty-five percent (25%).
<u>Total canopy closure (SMA)</u>	<u>"Total canopy closure" means</u> for forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.
Travelers accommodations	<u>"Travelers accommodations" means</u> any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.
<u>Treatment (SMA)</u>	<u>"Treatment (SMA)" means</u> for forest practices, a site-specific operation that carries out the forest management objectives for an area.
Treaty rights or other rights	<u>"Treaty rights or other rights" means</u> rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
Tributary fish habitat	<u>"Tributary fish habitat" means</u> streams that are used by anadromous or resident fish for spawning, rearing and/or migration.
<u>Understory (SMA)</u>	<u>"Understory" means</u> for forest practices, the shorter or immature trees below the tall or mature overstory trees.
Undertaking	<u>"Undertaking" means</u> any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.2(o)].

Unimproved lands	<u>“Unimproved lands” means</u> lands that generally do not have developments such as buildings or structures.
Upland	<u>“Upland” means</u> any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.
Uses allowed outright	<u>“Uses allowed outright” means</u> new uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.
Utility facility	<u>“Utility facility” means</u> Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.
<u>Vested Right</u>	<u>“Vested right” means</u> the right to develop or continue to develop a use, a development, or a structure under the regulations in force at the time of when a complete pre-application or application was filed, subject to the application being approved.
Viewshed	<u>“Viewshed” means</u> a landscape unit seen from a key viewing area.
Visual Quality Objective (VQO)	<u>“Visual Quality Objective (VQO)” means</u> a set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.
Visually subordinate	<u>“Visually subordinate” means</u> a description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.
Water-dependent	<u>“Water-dependent” means</u> uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.
Water-related	<u>“Water-related” means</u> uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.
Wetlands	<u>“Wetlands” means</u> areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.
Wetlands functions	<u>“Wetlands functions” means</u> the beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and non-game birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.
<u>Winery</u>	<u>“Winery” means</u> an agricultural facility used for processing grapes into wine,

	<u>including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.</u>
<u>Wine sales/tasting room</u>	<u>"Wine sales/tasting room" means a facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved pursuant to Section 40.240.290. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.</u>
<u>Woody plant</u>	<u>"Woody plant" means a seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.</u>

40.240.050 APPLICATIONS AND PROCEDURES

A. 40.240.100 Application for Review and Approval.

1. Applications received under this chapter shall be reviewed as Type II procedures specified in Section 40.510.020, except where specified otherwise herein.
2. Prior to initiating any use or development which requires review and approval by the responsible official, an application shall be completed pursuant to Section 40.240.050. The responsible official shall accept and review the application pursuant to Sections 40.240.050(C) through 40.240.400 for consistency with the appropriate guidelines of this rule. Review of a proposed use or development shall commence upon the acceptance of an application by the responsible official. The responsible official will charge a fee for review of applications.
3. Standard application forms shall be available at the Clark County and Columbia River Gorge Commission offices.
4. An application for permit review within the Columbia River National Scenic Area shall submit eight (8) individually bound copies of the following materials, unless a lesser number is specified.
 - a. The original application form provided by the planning responsible official shall be completed and signed by the applicant;
 - b. The pre-application conference summary and a description of information submitted in response to the pre-application conference;
 - c. The following maps of the GIS development packet (as available from the Community Development Department):
 - (1) General location map;
 - (2) Elevation contours map;
 - (3) Aerial photography map (most recent year ~~currently available from the through Clark County~~ Community Development Department);
 - (4) Aerial photography with contours;
 - (5) Current zoning map;
 - (6) Current comprehensive plan map;
 - (7) Map of C-Tran bus routes, park and trails;
 - (8) Water, sewer and storm systems map;
 - (9) Soil type map;
 - (10) Environmental constraints map; and
 - (11) Assessor's quarter-section map.
 - d. A narrative explaining how the application meets or exceeds each of the applicable approval criteria and standards, and issues identified in the pre-application conference, including the minimum area and dimensions of the base zone and a general description of how services will be provided to the site.
 - (1) ~~If the site is visible from any key viewing area, t~~The applicant needs to provide conceptual elevation drawings for the proposed structures and a description of the height, shape, color, building materials, exterior lighting and landscaping materials. The drawings should include

- 1 the appearance of proposed buildings when built and surrounding final grades (see Section
2 40.240.800). If the applicant feels the site is not visible from any key viewing areas this
3 must be demonstrated.
- 4 (2) If the site is visible from any key viewing area, the applicant is encouraged to provide
5 photographs from the key viewing area toward the building site with balloons or other siting
6 device to verify visual subordination. Photographs can also be used to verify the site is not
7 visible from any key viewing area, if that is the case.
- 8 (3) The height of buildings is required in the applications, even if the site is not visible from a
9 key viewing area.
- 10 (4) The applicant shall address all applicable criteria outlined in Section 40.240.800.
- 11 e. Information necessary to demonstrate that the subject lot(s) has been created legally:
- 12 (1) Prior county short plat, subdivision, lot determination or other written approvals, if any, in
13 which the parcel was formally created or determined to be a legal lot; or
- 14 (2) Sales or transfer of deed history, dating back to 1969, or a condition satisfying subsection
15 (e)(1) above, or this section, to include copies of recorded deeds and/or contracts verifying
16 the date of creation of the parcel in chronological order with each deed identified with the
17 assessor's lot number;
- 18 f. A proposed plan drawn to scale. The scale of the plan shall be large enough to allow the
19 responsible official to determine the location and extent of the proposed use or development
20 and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be
21 prepared at a scale of one inch equals 200 feet (1:2,400), or a scale providing greater detail.
22 The plan shall clearly depict the following information:
- 23 (1) General Information.
- 24 (a) Applicant's name, mailing address and phone number;
- 25 (b) Owner's name and mailing address;
- 26 (c) Contact person's name, address and phone number;
- 27 (d) North arrow (oriented to the top, left or right of the page), scale and date;
- 28 (e) Proposed name of project;
- 29 (f) Vicinity map covering one-quarter- (1/4-) mile radius from the development site; and
- 30 (g) Area of the site in acres or square feet.
- 31 (2) Existing Conditions. (For purpose of Fully Complete determination, only those existing
32 conditions that are shown on the GIS map, known by the applicant or are discussed in the
33 pre-application conference summary must be included on the proposed plan.)
- 34 (a) Environmental. On or within one hundred (100) feet of the site:
- 35 i. Topography (at two (2) foot contour intervals if available from a public source);
- 36 ii. Watercourses (streams, rivers, etc.) with thread of stream surveyed for all on-site
37 watercourses;
- 38 iii. Areas prone to flooding;
- 39 iv. FEMA designated floodplains, flood fringe, or floodway;
- 40 v. Water bodies and known wetlands;
- 41 vi. Wetland delineation and assessment study for all on-site wetlands four (4) copies
42 of study required;
- 43 vii. Any unstable slopes and landslide hazard areas;
- 44 viii. Geotechnical report for all unstable slopes or landslide hazard areas on the site;
- 45 ix. Significant wildlife habitat or vegetation; and
- 46 x. Significant historic, cultural or archaeological resources.
- 47 (b) Land Use and Transportation.
- 48 i. Layout, square footage and dimensions of all parcels;
- 49 ii. Location(s) of any existing buildings(s) on the site and use;
- 50 iii. Location and width of existing easements for access, drainage, utilities, etc.;
- 51 iv. Name, location and width of existing rights-of-way;
- 52 v. Name, location, width and surfacing materials (e.g., gravel, asphalt or concrete,
53 etc.) of roadways and easements (private and public);
- 54 vi. Location of existing driveways and those driveways across the street to include
55 distance between driveways and roadways (centerline to centerline);

- 1 vii. Location and width of existing pedestrian and bicycle facilities on and within one
2 hundred (100) feet of the site; and
3 viii. Transit routes and stops within one-quarter- (1/4-) mile of the development site,
4 (c) Water and Sewer. Make a note on the plan indicating the following:
5 i. Location and direction to the nearest fire hydrant;
6 ii. Location of existing sewage disposal systems and wells on the site; and
7 iii. Location of existing sewage disposal systems and wells within one hundred (100)
8 feet of the site (as available from the health department ~~district~~).
9 g. Proposed Improvements.
10 (1) Environmental.
11 (a) Wetland, stream, steep bank buffer areas/protected areas; and
12 (b) Planned enhancement areas.
13 (2) Land Use and Transportation.
14 (a) Dimensions of all proposed easements;
15 (b) Location (i.e., dimensions from property lines) of any existing buildings to remain on the
16 site to include square footage. For all structures include the number of stories,
17 construction type (e.g., metal, wood, concrete block, etc.) and proposed uses;
18 (c) Setbacks from property lines shall be shown on the site plan;
19 (d) Location and width of all road rights-of-way;
20 (e) Location width (e.g., curb to curb distance) and surface material of all proposed roadways
21 (private or public), provided by drawing or note and typical cross-section (from county
22 road standards);
23 (f) Location of all road segments in excess of fifteen percent (15%) grade that are either on
24 the site or within five hundred (500) feet of the site which are being proposed for site
25 access;
26 (g) Location, width, estimated grade and surface material of off-site roads which will provide
27 access to the site within five hundred (500) feet of the site;
28 (h) Location and width of proposed driveways for corner lots and driveways where site
29 distance standards cannot be met;
30 (i) Site distance triangles where site distance standards cannot be met;
31 (j) Location and width of proposed pedestrian and bicycle improvements other than those in
32 standard locations within road rights-of-way;
33 (k) Location and width of proposed easements for access, drainage, utilities, etc. (provided
34 by drawing or note);
35 (l) Layout of proposed structures including square feet;
36 (m) Architectural drawings and sketches, indicating floor plan, elevation, types of materials
37 and colors, and type of construction per the International ~~Uniform~~ Building Code;
38 (n) Narrative on proposed uses, hours of operation, frequency of truck deliveries, and
39 construction schedule;
40 (o) Location, dimensions and number of off-street parking and loading areas;
41 (p) Sign plan; and
42 (q) Location and dimensions of recyclable and solid waste storage areas.
43 (3) Landscape Plan.
44 (a) Location, number, species, size at planting, and spacing of proposed plant materials;
45 (b) Location, number, species and size of existing landscape material to be removed and/or
46 retained;
47 (c) The location, type (such as sod, groundcover or shrub mass) and area (in terms of
48 square feet and percentage of site) of all soft landscaped areas and buffers;
49 (d) Location, height and materials of fences, buffers, berms, walls and other methods of
50 screening;
51 (e) Surface water management features integrated with landscape, recreation or open space
52 areas;
53 (f) Location, size and construction type of hard landscaping features such as pedestrian
54 plazas;
55 (g) Active or passive recreational or open space features;

- 1 (h) Final site contours; and
2 (i) ~~Fire hydrants.~~ The location of all fire hydrants.
- 3 h. A preliminary stormwater plan pursuant to per Section 40.380.060, 40.370.040(F)(3).
4 i. A proposed phasing plan (if any proposed) to include transportation and water quality
5 improvements;
6 j. A transportation impact study, if required, pursuant to Chapter 40.350;
7 k. A utility review from the public sewer purveyor or one (1) copy of a preliminary soil suitability
8 analysis, or equivalent for on-site systems from the health department; district.
9 l. A utility review from the public water purveyor, noting the ability to meet water pressure and fire
10 flow requirements of the fire marshal or current evidence of the availability of suitable
11 groundwater where water purveyor has determined public water or community water systems
12 cannot be provided;
13 m. A completed State Environmental Policy Act (SEPA) checklist;
14 n. Applications necessarily associated with the Gorge Permit review, to the extent applicable, for
15 variances to dimensional requirements of the base or overlay zones, for wetland and habitat
16 permits, and for modifications to the road standards in Chapter 40.350;
17 o. Any and all existing covenants or restrictions and/or easements that apply to the property;
18 p. The corners of each proposed building should be staked and flagged at the time of application;
19 q. Appropriate protections of the stream that are on the property need to be taken in accordance
20 with Chapter 40.440 and Section 40.240.850;
21 r. A Forest Practice application is required for any commercial removal of trees from the property;
22 s. In the SMA Special Management Area, applications and/or site plans shall contain the natural
23 resources information required in Section 40.240.880;
24 t. Any additional information that the applicant feels will assist in the evaluation of the proposal
25 including, but not limited to, maps, drawings, and development plans;
26 u. The signature of the applicant and property owner or a statement from the property owner
27 indicating that he is aware of the application being made on his property; and
28 v. The signature of the property owner on a statement that authorizes the responsible official or
29 the responsible official's designee reasonable access to the site in order to evaluate the
30 application.
- 31 5. Applications for the following uses or developments shall include additional information as required
32 by the pre-application staff report or by the responsible official:
- 33 a. All buildings, roads, or mining and associated activities proposed on lands visible from Key
34 Viewing Areas, pursuant to Section 40.240.800;
35 b. In the GMA General Management Area, production and/or development of mineral resources
36 and expansion of existing quarries pursuant to Sections 40.240.800(B)(14) and (B)(15);
37 c. In the GMA General Management Area, all proposed structural development on sites visible
38 from key viewing areas and involving more than two hundred (200) cubic yards of grading,
39 regardless of slope shall require a grading plan, pursuant to Section 40.240.800(B)(26); any
40 structural development involving more than 100 cubic yards of grading on sites visible from any
41 key viewing areas and which slope is between ten and thirty percent (10-30%)
42 d. In the GMA, all applications for structural development involving more than one hundred (100)
43 cubic yards of grading with slopes greater than ten percent (10%) shall include a grading plan
44 pursuant to Section 40.240.800(B)(26);
45 e. In the SMA, all applications for structural development involving more than one hundred (100)
46 cubic yards of grading with slopes greater than ten percent (10%) (except trails) shall include a
47 grading plan, pursuant to Section 40.240.800(B)(26);
48 f. Elevation drawings shall show the appearance of proposed structures and shall include natural
49 grade, finished grade, and the geometrical exterior of at least the length and width of structures
50 as seen from a horizontal view. Elevation drawings shall be drawn to scale, pursuant to
51 Section 40.240.800(B)(26);
52 g. In the GMA General Management Area, vegetation management projects in public rights of way
53 along Scenic Travel Corridors, pursuant to Section 40.240.800(D)(4);
54 h. Large-scale uses as defined by Section 40.240.820(A)(3)(c) shall include reconnaissance
55 survey reports, pursuant to Sections 40.240.820(A)(3)(f) and (g);

- i. Proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings that are fifty (50) years old or older, pursuant to Section 40.240.820(A)(3)(h)(3);
 - j. In the ~~GMA General Management Area~~, new uses located in or providing recreational access to the Columbia River or its fishbearing tributaries, pursuant to Section 40.240.180(A)(1);
 - k. In the ~~GMA General Management Area~~, any review use in a wetland or within a wetland buffer zone, pursuant to Section 40.240.840(A)(2);
 - l. In the ~~GMA General Management Area~~, any review use in a stream, pond, lake, or within their buffer zones, pursuant to Section 40.240.850(A)(2);
 - m. In the ~~GMA General Management Area~~, any review use within one thousand (1000) feet of a sensitive wildlife area or site, pursuant to Section 40.240.860(A)(2). Large-scale uses as defined by Section 40.240.860(C) shall also include field survey information, pursuant to Section 40.240.860(C)(5);
 - n. In the ~~GMA General Management Area~~, any review use within one thousand (1000) feet of a sensitive plant, pursuant to Section 40.240.870(A)(2). Large-scale uses as defined by Section 40.240.870(C) shall also include field survey pursuant to Section 40.240.870(C)(5);
 - o. In the ~~GMA General Management Area~~, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, pursuant to Section 40.240.430(A)(9), and if applicable, Section 40.240.430(A)(10);
 - p. In the ~~GMA General Management Area~~, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling not in conjunction with agricultural use, pursuant to Section 40.240.430(A)(16);
 - q. In the ~~GMA General Management Area~~, on lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative, pursuant to Section 40.240.430(A)(11);
 - r. In the ~~SMA Special Management Area~~, on lands zoned Gorge Forest or Agriculture, a single-family dwelling, pursuant to Section 40.240.510(B)(10);
 - s. In the ~~SMA Special Management Area~~, on lands zoned Gorge Forest or Agriculture, forest practices, pursuant to Section 40.240.510(B);
 - t. In the SMA, on lands zoned Agriculture or Forest, clearing trees for new agricultural use, pursuant to Section 40.240.510(B)(24);
 - u. In the ~~SMA Special Management Area~~, on lands designated Open Space, any new use or development, pursuant to Section 40.240.600;
 - v. In the ~~SMA Special Management Area~~, on lands zoned Gorge Agriculture or Forest, a single-family dwelling necessary and accessory to agricultural use, pursuant to Section 40.240.430;
 - w. In the ~~SMA Special Management Area~~, on lands zoned Gorge SMA Agriculture or Forest, farm labor housing, pursuant to Section 40.240.430(B)(4);
 - x. In the ~~GMA General Management Area~~, on lands zoned Gorge Small Woodland, a single-family dwelling pursuant to Section 40.240.510(A)(1);
 - y. In the ~~GMA General Management Area~~, on lands zoned Gorge Small Woodland, a single-family dwelling in conjunction with agricultural use pursuant to Section 40.240.430(A)(8);
 - z. In the ~~GMA General Management Area~~, on lands zoned Gorge Woodland, agricultural labor housing, pursuant to Section 40.240.510(A)(18); and/or
 - aa. Other uses as deemed necessary by the responsible official.
6. Completed application forms shall be submitted directly to the Department of Community Development.
 7. The requisite fee shall accompany the application.

B. 40.240.110 Pre-application Conference.

Within the Columbia River Gorge National Scenic Area pre-application conferences shall be mandatory for land use proposals requiring Type II or Type III review pursuant to under Sections 40.510.020 or 40.510.030. The purposes of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this chapter, to discuss the principle elements of the

proposed action, and to identify guidelines that create opportunities or pose constraints for the proposed action.

C. Contingent Vesting of Applications.

An application that is subject to pre-application review shall earlier contingently vest on the date a complete pre-application is submitted. Contingent vesting shall become final if a fully complete application for substantially the same proposal is submitted within one-hundred eighty (180) calendar days of the date the responsible official issues a written summary of pre-application review pursuant to Section 40.510.030(A)(4).

D. ~~40.240.120~~ Acceptance of Application.

The responsible official shall review the application for completeness and adequacy within the timeframe pursuant to Chapter 40.510, Section 40.240.050(F)(3). To determine that an application is fully complete refer to Section 40.240.050(A), Application for Review and Approval. Additional submittals additional to Section 40.240.050(A) may be required through reference in the pre-application report.

1. No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The responsible official shall notify the applicant of all omissions and deficiencies in writing within the time frame pursuant to Chapter 40.510, Section 40.240.050(F)(3).
2. No application shall be accepted which the responsible official deems cannot be acted upon reasonably within the time frame pursuant to Chapter 40.510, Section 40.240.050(F)(3), except when the applicant consents to a longer period for action.
3. No application shall be accepted unless accompanied by a list of names and addresses of the adjacent property owners within five hundred (500) feet of the subject parcel. A statement from the County Assessor or appropriate agency confirming the accuracy of the list shall accompany the list.
4. No application for a proposed use which is explicitly prohibited by Section 40.240.110 shall be accepted.
 - a. The application shall be returned to the applicant.
 - b. A letter, signed by the responsible official, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.
 - c. Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to this title.

E. ~~40.240.130~~ Notice of Development Review.

1. Notice of development review shall be issued pursuant to Sections 40.510.020(E) or 40.510.030(E), and shall provide the following information:
 - a. The notice shall state that the application and supporting documents are available for inspection at Clark County and Gorge Commission offices during normal working hours.
 - b. The notice shall state the applicant must comply with all applicable local, state and federal laws.
2. The notice shall be mailed to:
 - a. The Forest Service, Washington Department of Fish and Wildlife, Columbia River Gorge Commission, Indian Tribes, and the applicable city, and local library, and any other party that has requested notice; and
 - b. The Washington Department of Natural Resources Natural Heritage Program, if the responsible official or the Columbia River Gorge Commission or its staff determines that such notice is warranted; provided, that if the Columbia River Gorge Commission or its staff determines that such notice is warranted, it shall forward notice to the Heritage Program; and
 - c. As determined by Sections 40.510.020(E) for Type II or 40.510.030 (E) for Type III.
3. In addition to notice, fully complete application packets shall be routed to the Gorge Commission and any other party that has requested a fully complete application.

F. ~~40.240.140~~ Comment Period.

Interested persons shall have fifteen (15) working days from the date which the notice is sent to submit written comments to the responsible official relative to the consistency of the proposed actions with the guidelines of this chapter:

1. Within seven (7) days of the close of the comment period, the responsible official shall determine if a wildlife management plan pursuant to Section 40.240.860(F) or a rare plant protection and rehabilitation plan pursuant to Section 40.240.870(F) is required.
2. For proposed uses or developments where a cultural resources survey (reconnaissance or historic) is required and where the Commission is performing the survey, the survey shall be completed by the close of the comment period. Upon receipt of the completed survey, the responsible official shall forward the survey to the State Historic Preservation Officer (SHPO), and Indian Tribes pursuant to Sections 40.240.820(A)(2) and (B)(2)(a).
3. Within seven (7) days of the close of the thirty- (30-) day reconnaissance survey comment period for SHPO and Indian Tribes, the responsible official shall determine if an evaluation of significance pursuant to Section 40.240.820(C) is required.

G. ~~40.240.160~~ Decision of the Responsible Official.

1. In making a decision on a proposed use or development the responsible official shall:
 - a. Consult with the applicant and such agencies as the responsible official deems appropriate;
 - b. Consider information submitted by the applicant and all other relevant information available; and
 - c. Consider all comments submitted pursuant to Section 40.240.050(F), ~~440~~ and provide notice and consider the comments of the Forest Service and/or Columbia River Gorge Commission. The absence of timely comments of any parties provided notice shall not automatically preclude the responsible official from issuing a decision.
2. The responsible official shall approve a proposed use or development only if it is consistent with the standards of this chapter and other applicable regulations. In approving a proposed development action, the responsible official may impose conditions as necessary to ensure consistency with this chapter.
3. The responsible official shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of this chapter and other applicable regulations within the time frame pursuant to Sections 40.510.020(F) or 40.510.030(F) except in one or more of the following situations:
 - a. The applicant consents to an extension of time;
 - b. The responsible official determines that additional information is required pursuant to Section 40.240.050(A); ~~40.240.140~~.
 - c. The responsible official determines that additional information is necessary to evaluate the impacts of the proposed use to scenic, cultural, natural, and recreation resources; and/or
 - d. Unforeseen circumstances including, but not limited to, weather or illness. ~~etc.~~
4. The responsible official shall mail a copy of the decision to the applicant, the Commission, the Forest Service, the applicable state, the Indian Tribes, the applicable county and/or city and each person who submitted comments pursuant to ~~under~~ subsection (F). The decision shall set forth the rights of appeal under Sections 40.510.020(H) ~~(J)~~ or 40.510.030(H).
5. The decision of the responsible official shall be final unless a Notice of Appeal is filed in accordance with this title.
6. The decision of the responsible official approving a proposed development action shall become void:
 - a. When the development action is not undertaken within two (2) years of the decision, or
 - b. When the development action is discontinued for any reason for one (1) year or more.
7. An applicant may request an extension of the validity of a development approval. Such request shall be considered an administrative action and shall be submitted to the responsible official prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.
8. The responsible official may grant an extension of up to twelve (12) months in the validity of a development approval if it is determined that conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation. The responsible official shall not grant an extension if the site characteristics and/or new information indicates that the proposed use may adversely affect scenic, cultural, natural or recreation resources in the National Scenic Area.

- 1 9. The development approval time-lines in this section shall take precedence over the development
2 approval time lines in Section 40.500.010(B).
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5 H. Standards for Applications and Expirations of Approvals.

- 6 1. Standards for Applications --Complete Application Required. Any proposed use, development or
7 structure shall be reviewed according to the standards in effect on the date an applicant
8 submitted a complete land use application to the reviewing agency. A complete application is
9 one that the reviewing agency determines meets the Management Plan's requirements for:
10 a. a complete application form;
11 b. a complete site plan; and
12 c. all applicable information specified in the parts of the Management Plan titled Resource
13 Protection and Enhancement, Land Use Designations, and Administration.
14 Incomplete applications shall not be reviewed.
15 2. Expirations of Approvals.
16 a. Notice not required. Expiration of any land use approval issued pursuant to this Columbia
17 River Gorge National Scenic Area (Management Plan) shall be automatic. Failure to give
18 notice of expiration shall not affect the expiration of a land use approval.
19 b. Land Use Approvals without Structures. Any land use approval issued pursuant to the
20 Management Plan for a use or development that does not include a structure shall expire two
21 (2) years after the date the land use approval was granted, unless the use or development
22 was established according to all specifications and conditions of approval in the land use
23 approval. For land divisions, "established" means the final deed or plat has been recorded
24 with the county recorder or auditor.
25 c. Land Use Approvals with Structures. Any land use approval issued pursuant to the
26 Management Plan for a use or development that includes a structure shall expire as follows:
27 (1) When construction has not commenced within (2) two years of the date the land use
28 approval was granted, or
29 (2) When the structure has not been completed within (2) two years of the date of
30 commencement of construction.
31 d. Commencement of Construction. As used in subsection (c)(1) above, commencement of
32 construction shall mean actual construction of the foundation or frame of the approved
33 structure. For utilities and developments without a frame or foundation, commencement of
34 construction shall mean actual construction of support structures for an approved above
35 ground utility or development or actual excavation of trenches for an approved underground
36 utility or development. For roads, commencement or construction shall mean actual grading
37 of the roadway.
38 e. Completion of Structure. As used in subsection (c)(2) above, completion of the structure shall
39 mean:
40 (1) completion of the exterior surface(s) of the structure; and
41 (2) compliance with all conditions of approval in the land use approval.
42 f. Extension of Validity of Land Use Approvals. A request for extension of the time frames in
43 subsections (b), (c)(1) or (c)(2) above, shall be submitted in writing before the applicable
44 expiration date.
45 (1) A reviewing agency may grant one twelve- (12-) month extension to the validity of a land
46 use approval if it determines that events beyond the control of the applicant prevented
47 commencement of the use or development (applicable to subsection (b) above) or
48 commencement of construction (applicable to subsection (c)(1) above) within the original
49 two- (2-) year time frame.
50 (2) An agency may also grant one twelve- (12-) month extension if it determines that events
51 beyond the control of the applicant prevented completion of the structure (applicable to
52 subsection (c)(2) above) within the original two-year time frame.
53 (3) A request for extension shall state the reason why events beyond the control of the
54 applicant warrant an extension.
55 (4) Approval or denial of a request for extension shall be considered an administrative

1 decision.

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5 I. 40.240.170 Appeal Process.

6 Appeals will be handled pursuant to Section 40.510.020(H)(J) for Type II applications or Section
7 40.510.030(H) for Type III applications.

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9 J. 40.240.180 Changes or Alterations to an Approved Action.

10 Any change or alteration to a development action approved by the Commission or responsible official
11 pursuant to this rule shall be processed as new action, except that the responsible official may
12 approve minor changes or alterations deemed to be consistent with the guidelines of this chapter and
13 the findings and conclusions for the original action. If the responsible official approves a minor
14 change, the Director shall notify all of the parties that would have standing to appeal the change,
15 including the applicant, the Forest Service, the four Indian tribal governments, the county planning
16 department, and anyone who submitted comments during the comment period on the original land use
17 application. The change itself (not the original decision) would be subject to appeal under the same
18 time frames applicable to the original decision.

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21 **40.240.060 EXPEDITED DEVELOPMENT REVIEW PROCESS**

22 A. Development Eligible for Expedited Review.

23 The following developments may be reviewed using the expedited development review process,
24 provided they comply with the resource protection and procedural guidelines contained in this
25 section.

- 26 1. Except in Open Space, accessory structures between sixty (60) and two hundred (200) square feet
27 in area and ten (10) feet or less in height. Only one accessory building per parcel may be allowed
28 under this guideline, regardless of whether the parcel already includes an accessory building(s).
29 Additional accessory buildings shall be subject to full review. This category does not include decks,
30 fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.
- 31 2. Additions and covered decks for existing buildings provided the existing building is at least five
32 hundred (500) square feet in area and the addition or covered deck is no larger than two hundred
33 (200) square feet in area and no taller than the height of the existing building. Only one addition
34 and one covered deck per parcel may be allowed under this guideline, regardless of whether the
35 parcel already includes an addition or covered deck.
- 36 3. Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to six (6) feet in
37 height and less than or equal to one hundred (100) feet in length.
- 38 4. Wire-strand fences other than those allowed outright, provided the fence complies with Section
39 40.240.860(G) if it is inside deer and elk winter range as delineated in the Gorge
40 Commission/Forest Service natural resource inventories or determined by an appropriate
41 federal or state agency.
- 42 5. In the GMA, woven-wire fences for agricultural use that would enclose eighty (80) acres or less.
- 43 6. Decks that are:
 - 44 a. uncovered;
 - 45 b. attached and accessory to existing dwellings; and
 - 46 c. five hundred (500) square feet or less in area and thirty (30) inches or less in height above
47 existing grade.
- 48 7. Road closure gates.
- 49 8. Signs, other than those allowed outright.
- 50 9. Outdoor lights.
- 51 10. Air, weather, water and other similar research and monitoring facilities, provided the facilities are
52 attached to existing structures or are less than or equal to one-hundred twenty (120) square feet in
53 size and less than or equal to twelve (12) feet in height.

11. Lot line adjustments in the GMA that would not result in the potential to create additional parcels through subsequent land divisions, pursuant to Section 40.240.380, except all lot line adjustments for parcels designated Open Space, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.
12. Lot line adjustments in the SMA are subject to the SMA lot line adjustment standards of Section 40.240.380(B).
13. Demolition of structures that are less than fifty (50) years old, including wells, septic tanks and fuel tanks.
14. Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.
15. Trail reconstruction involving up to one thousand (1,000) feet of trail re-routing.
16. The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):
 - a. New guardrails and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.
 - b. New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to one-hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height. This category does not include signs.
 - c. Pave existing dirt and gravel roads; provided, that the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.
 - d. New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to one-hundred twenty (120) square feet in size and less than or equal to twelve (12) feet in height.
17. New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that (1) no ditch for linear facilities would be more than thirty-six (36) inches wide and (2) no excavation for non-linear facilities would exceed twenty (20) cubic yards.
18. The following aboveground and overhead utility facilities:
 - a. Modify existing aboveground and overhead utility facilities or develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters; provided, that the development would be less than or equal to one-hundred twenty (120) square feet in area and less than or equal to twelve (12) feet in height.
 - b. Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters; provided, that the replacement facilities would be in the same location as and no more than fifteen percent (15%) larger than the physical size of the existing facilities.
 - c. New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright; provided, that the size is the minimum necessary to provide the service.
19. Replacing an existing mobile home in a mobile home space within a mobile home park; provided, that:
 - a. The mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of existing use or structure and Sections (40.240.170) (A) through (D);
 - b. The replacement mobile home shall be in the same location as the mobile home to be replaced;
 - c. the height of the replacement mobile home shall be no more than twenty percent (20%) greater than the mobile home to be replaced; and
 - d. the mass and footprint of the replacement mobile home shall be no more than one hundred percent (100%) greater than a single-wide mobile home to be replaced or no more than twenty-five (25%) percent greater than a double-wide mobile home to be replaced.
20. Retaining walls accessory to existing dwellings less than or equal to two (2) feet in height and less than or equal to one hundred (100) feet in length.
21. In the SMA, wind machines for frost control in conjunction with agricultural use.

1 B. Resource and Treaty Rights Protections Guidelines.

2 Proposed developments reviewed using the expedited review process shall comply with the following
3 resource protection guidelines:

4 1. Scenic resources.

- 5 a. In the GMA, the scenic resource protection guidelines shall not apply to woven-wire fences for
6 agricultural use that would enclose eighty (80) acres or less.
7 b. The colors of structures topographically visible from key viewing areas shall be dark earth-tones
8 found at the specific site or the surrounding landscape. The specific colors or list of acceptable
9 colors shall be included as a condition of approval. This guideline shall not apply to additions,
10 which may match the color of existing buildings.
11 c. Structures topographically visible from key viewing areas shall use low or non-reflective building
12 materials, including roofing, gutters, vents, and chimneys.
13 d. Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are
14 not highly visible from key viewing areas. Shielding and hooding materials shall be composed
15 of non-reflective, opaque materials.
16 e. Signs shall comply with Section 40.240.300.
17 f. Structures within one-half mile of a key viewing area and topographically visible from the key
18 viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard
19 (e.g., visual subordination, not visually evident).

20 2. Cultural resources.

- 21 a. The expedited development review process shall only be used to review proposed development
22 that does not require a reconnaissance survey or historic survey, pursuant to Section
23 40.240.820(A)(3).
24 b. The GMA guidelines that protect cultural resources and human remains discovered during
25 construction Sections 40.240.820(F) and (G) shall be applied as conditions of approval for all
26 development approved under the expedited development review process.

27 3. Recreation resources. The development shall not detract from the use and enjoyment of
28 established recreation sites on adjacent parcels.

29 4. Natural resources.

- 30 a. Wetlands, Streams, Rivers, Ponds, and Lakes. The development is outside buffer zones for
31 wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line
32 adjustments or development located inside road, utility or railroad rights-of-way or easements
33 that have been previously disturbed and regularly maintained.
34 b. Sensitive Wildlife and Sensitive Plants.
35 (1) The development meets one of the following:
36 (a) The development is at least one thousand (1,000) feet from known sensitive wildlife
37 areas or sites (excluding sensitive aquatic species, deer winter range, and turkey
38 habitat) and known sensitive plants; or
39 (b) The development does not disturb the ground or is inside road, utility or railroad rights-of-
40 way or easements or other areas that have been previously disturbed and regularly
41 maintained; or
42 (c) For sensitive wildlife, the development is within one thousand (1,000) feet of known
43 sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range
44 and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the
45 sensitive wildlife area or site is not active or (2) the proposed development would not
46 compromise the integrity of the wildlife area or site or occur during the time of the year
47 when wildlife species are sensitive to disturbance.
48 (d) For sensitive plants, the development is within one thousand (1,000) feet of known
49 sensitive plants, but the Washington Natural Heritage Program or a person with
50 recognized expertise in botany or plant ecology hired by the applicant has determined
51 that the development would be a least two hundred (200) feet from the sensitive plants.
52 (2) Development eligible for expedited review shall be exempt from the field survey
53 requirements for sensitive wildlife (Section 40.240.860(C)) or sensitive plants (Section
54 40.240.870(C)).
55

1 C. Treaty Rights Protection Guidelines.

2 Proposed developments reviewed using the expedited review process shall comply with the following
3 treaty rights protection guidelines:

- 4 1. Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.
5 2. The expedited development review process shall cease and the proposed development shall be
6 reviewed using the full development review process if an Indian tribe submits substantive written
7 comments during the comment period that identify the treaty rights that exist in the project vicinity
8 and explain how they would be affected or modified by the proposed development.
9 3. Except as provided in subsection (2) above, the GMA and SMA treaty rights and consultation
10 goals, policies and guidelines in Chapter 3, Section IV of the Management Plan shall not apply to
11 proposed developments reviewed under the expedited review process.

12
13 D. Procedure for Expedited Review Process.

14 1. Applications.

- 15 a. Prior to initiating any use or development, which requires review and approval by the Executive
16 Director, an application shall be completed pursuant to this section.
17 b. The responsible official shall accept and review the application pursuant to this section
18 for consistency with the appropriate guidelines.
19 c. Standard application forms shall be available from the department, and shall be provided to
20 the county offices for which this ordinance is effective and the Forest Service.
21 d. Applications for uses eligible for expedited review shall include the information required for
22 review uses listed in Section 40.240.050. They shall also include elevation drawings if the
23 proposed development would be visible from a key viewing area. The drawing shall show
24 natural grade and finished grade.

25 2. Acceptance of Applications. Applications shall be accepted pursuant to Sections 40.510.010(A)
26 and (B).

27 3. Notice of Development Review.

- 28 a. Within seven (7) days of the acceptance of an application, the responsible official shall issue
29 notice of a proposed development review. The notice shall provide the following information:
30 (1) The name of the applicant;
31 (2) The general and specific location of the subject property;
32 (3) A brief description of the proposed action;
33 (4) The deadline for rendering a decision; and
34 (5) The deadline for filing comments on the proposed action.
35 b. The notice shall state that the application and supporting documents are available for
36 inspection at the county during normal working hours.
37 c. The notice shall state the applicant must comply with all applicable local, state, and federal
38 laws.
39 d. The notice shall be mailed to the Gorge Commission, Forest Service, the four Indian tribal
40 governments, applicable county or city planning office(s), libraries and other agencies and
41 interested parties that request a notice or that the responsible official determines should be
42 notified.

43 4. Comment Period. Any interested person or party shall submit written comments within ten (10)
44 days from the date a notice is sent.

45 5. Written Decision.

- 46 a. In making a decision on a proposed use or development the responsible official shall:
47 (1) Consult with the applicant and such agencies as the responsible official deems appropriate;
48 (2) Consider information submitted by the applicant and all other relevant information available;
49 (3) Consider all comments submitted pursuant to Section 40.240.050; and
50 (4) Solicit and consider the comments of the Forest Service.
51 b. The responsible official shall approve a proposed use or development only if it is consistent
52 with the standards of Section 6 of the Management Plan and the purposes of the Act (Public
53 Law Lands 99-663), and this chapter.
54 (1) In approving a proposed development action, the responsible official may impose
55 conditions as necessary to ensure consistency with the guidelines of this chapter.

- 1 (2) Conditions attached to approval of a proposed development action shall be recorded in
2 county deeds and records to ensure notice of the conditions to successors in interest. The
3 responsible official's decision shall include this requirement.
4 c. The responsible official shall issue a decision on a proposed use or development including
5 findings of fact and conclusions of law and any conditions to ensure consistency with the
6 standards of Section 6 of the Management Plan and the purposes of the Act (Public Lands 99-
7 663) within thirty (30) days after acceptance of the application.
8 d. The decision of the responsible official shall be final unless a Notice of Appeal is filed in
9 accordance with Section 40.510.010(E). An applicant who chooses to proceed with an
10 approved development during the appeal period shall assume all associated risks and liabilities.
11 6. Notice of Decision and Opportunity to Appeal.
12 a. The responsible official shall send a copy of a decision issued under the expedited review
13 process to the four Indian tribal governments, the Forest Service, and landowners within two
14 hundred (200) feet of the perimeter of the subject parcel.
15 b. Any person wishing to appeal a decision issued under the expedited review process shall do so
16 pursuant to Section 40.240.050(I).
17 7. Expiration of Approvals. Approvals issued under the expedited review process shall expire in
18 accordance with the standards for expiration of approvals for review uses in Section 40.240.050(H).
19 8. Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under
20 the expedited review process shall be made in accordance with the standards for changes or
21 alterations to approved actions for review uses in Section 40.240.050(J).
22
23

24 **40.240.070 ~~40.240.150~~ EMERGENCY/ DISASTER RESPONSE ACTIONS NOTIFICATION**
25 **REQUIREMENTS**
26

27 A. General Guidelines.

- 28 1. Actions taken in response to an emergency/disaster event, as defined in Section 40.240.040, are
29 allowed in all GMA/SMA land use designations, subject to the notification requirements in
30 subsection (B)(1) ~~(2)~~ below.
31 2. Following emergency/disaster response actions, best management practices (BMPs) to prevent
32 sedimentation and provide erosion control shall be utilized whenever disaster response actions
33 necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not
34 limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute
35 netting, etc.
36 3. Structures or development installed or erected for a temporary use (e.g. sandbags, check dams,
37 plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following
38 an emergency event. If it can be demonstrated that the continued use of these devices is
39 necessary to protect life property, public services or the environment, an extension of no more
40 than two (2) years may be granted by the responsible official or the Forest Service for federal
41 agency actions.
42 4. The new exploration, development (extraction or excavation), and production of mineral
43 resources, used for commercial, private or public works projects, shall not be conducted as an
44 emergency/disaster response activity.
45 5. No spoils resulting from grading or excavation activities shall be deliberately deposited into a
46 wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an
47 emergency/disaster response action. The only exception to this is for construction of a fire line
48 during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and
49 determined to not be possible without further jeopardizing life or property.
50

51 B. Notification Requirements.

- 52 1. Actions taken in response to an emergency/disaster event, as defined, are allowed in all GMA
53 and SMA land use designations, subject to the following notification requirements.
54 a. Notification of an emergency/disaster response activity shall be submitted either within forty-
55 eight (48) hours of the commencement of a response action, or by the next business day

- 1 following the start of such an action, whichever is sooner. Notification shall be submitted by
2 the party conducting an emergency/disaster response activity or their representatives. In the
3 case of multiple responding parties, the first party to respond shall provide the required
4 notification, unless, upon mutual agreement of responding parties, another responder elects
5 to assume this responsibility.
- 6 b. Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification
7 occurs by telephone, a hard copy of the notification shall be submitted by mail or in person
8 within seven (7) days.
- 9 c. Notification shall be furnished to the responsible official or the Forest Service for federal
10 agency actions.
- 11 d. At a minimum, the following information shall be required at the time of notification:
12 (1) Nature of emergency/disaster event;
13 (2) Description of emergency/disaster response activities and magnitude of response
14 actions to be taken, if applicable (such as extent of earth movement, erection of
15 structures, etc.);
16 (3) Location of emergency/disaster response activities;
17 (4) Estimated start and duration of emergency/disaster response activities; and
18 (5) Contact person and phone number for the parties conducting emergency/disaster
19 response actions.
- 20 e. Repair and maintenance of an existing serviceable structure to its previously authorized and
21 undamaged condition are not subject to the above referenced notification requirements.
- 22 2. Upon notification of an emergency/disaster response action, the responsible official, or Forest
23 Service shall, as soon as possible:
- 24 a. Review its natural resource inventory data and notify the contact person for the
25 emergency/disaster response actions of all inventoried natural resource sites and their buffers,
26 that are within or adjacent to the response area or that may be adversely affected by response
27 activities;
- 28 b. Notify the ~~Oregon or~~ Washington Department of Fish and Wildlife of all noticed
29 emergency/disaster response actions, to provide that agency an opportunity to consult with
30 responding agencies during the event, and;
- 31 c. Notify the Forest Service, ~~the Oregon Historic Preservation Office or~~ the Office of Washington
32 Office of Archeology and Historic Preservation, and the tribal governments of all
33 emergency/disaster response activities. The Forest Service will review their cultural resource
34 inventory data and notify the contact person for the emergency/disaster response action as
35 soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or
36 adjacent to, emergency/disaster response areas. ~~Upon notification of a response action, the~~
37 ~~Forest Service shall, as soon as possible, offer the services of a resource advisor to the~~
38 ~~agency(ies) conducting the response action. The resource advisor will provide on-site advice~~
39 ~~to minimize impacts to resources from emergency/disaster response actions.~~
- 40 3. Upon notification of a response action, the Forest Service shall, as soon as possible, offer the
41 services of a resource advisor to the agency(ies) conducting the response action. The resource
42 advisor will provide on-site advice to minimize impacts to resources from emergency/disaster
43 response actions.
- 44
- 45 C. Post-Emergency/Disaster Response Development Review Application Requirements.
- 46 1. Within thirty (30) days following notification, a post-emergency/disaster response application shall
47 be submitted by the party conducting the response action to the responsible official, or Forest
48 Service for federal agency actions. In the case of an event with multiple responding parties, the
49 party providing initial notification as required herein shall submit the application. An exception to
50 this may occur if another responding party, by mutual agreement with the other respondents,
51 elects to submit the application. Requests to extend this submittal deadline may be made in
52 writing and shall include the reason why an extension is necessary. Extensions shall not exceed
53 thirty (30) days in duration and not more than two (2) extensions shall be granted.
- 54 2. Post-emergency/disaster response applications shall only address development activities
55 conducted during an emergency/disaster response. Applications shall specify if development

- placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.
3. Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within five hundred (500) feet of a known cultural resource (as determined in the notification process).
 4. Applications shall include the following information:
 - a. Applicant's name and address.
 - b. Location of emergency/disaster response.
 - c. A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.
 - d. A map of the project area drawn to scale, at a scale of one inch equals two hundred (200) feet (1:2,400) or a scale providing greater detail. The map shall include:
 - (1) North arrow and scale;
 - (2) Boundaries, dimensions and size of subject parcel(s);
 - (3) Bodies of water, watercourses, and significant landforms;
 - (4) Existing roads and structures; and
 - (5) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.
 - e. An exception to the scale requirements in subsection (d) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of one inch equals two hundred (200) feet (1:2,400) or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.
 5. Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:
 - a. Notice of the application to landowners within two hundred (200) feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties;
 - b. A written decision with findings of fact and conclusions of law; and
 - c. An opportunity to request a hearing.
- D. Post-Emergency/Disaster Response Development Review.
- Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined, shall be reviewed for compliance with the following guidelines.
1. Scenic Resources.
 - a. Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. Such actions shall be rendered visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordination requirements in Section 40.240.800(C).
 - b. Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
 - c. Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one (1) year.
 - d. The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate

- 1 in their landscape setting as seen from key viewing areas, unless the structure is fully
2 screened from key viewing areas by existing topographic features.
- 3 e. Additions to existing structures, resulting from an emergency/disaster response action, which
4 are smaller in total height, bulk or area than the existing structures may be the same color as
5 the existing development. Additions larger than the existing development shall be visually
6 subordinate in their landscape setting as seen from key viewing areas to the greatest extent
7 practicable.
- 8 f. In the ~~GMA General Management Area~~, spoil materials associated with grading, excavation
9 and slide debris removal activities in relation to an emergency/disaster response action shall
10 comply with the following standards:
11 (1) The spoil materials shall either be:
12 (a) Removed from the NSA;
13 (b) Deposited at a site within the NSA permitted by an agency administering a
14 Scenic Area land use ordinance; or
15 (c) Recontoured, to the greatest extent practicable, to retain the natural
16 topography, or a topography which emulates that of the surrounding
17 landscape.
18 (2) The responsible official shall decide whether an applicant removes the spoil
19 materials, deposits the spoil materials, or (re)contours the spoils materials.
20 ~~(See subsection (1) above). The applicant does not make this decision.~~
21 (3) The responsible official shall select the action in subsection (1) above that, to the greatest
22 extent practicable, best complies with the policies and guidelines in the Management
23 Plan that protect scenic, cultural, recreation, and natural resources.
24 (4) Disposal sites created pursuant to subsection (1)(c) above shall only be used for spoil
25 materials associated with an emergency/disaster response action. Spoil materials from
26 routine road maintenance activities shall not be deposited at these sites.
- 27 g. In the ~~SMA Special Management Area~~, spoil materials associated with grading, excavation
28 and slide debris removal activities in relation to an emergency/disaster response action shall
29 comply with the following standards:
30 (1) The spoil materials shall either be:
31 (a) Removed from the NSA, or
32 (b) Deposited at a site within the NSA permitted by an agency administering a
33 Scenic Area land use ordinance within two (2) years of the emergency.
34 (2) After the spoils materials are removed, the emergency disposal site shall be
35 rehabilitated to meet the scenic standard.
36 (3) All grading (i.e., recontouring) shall be completed within thirty (30) days after the
37 spoils materials are removed.
38 (4) Sites shall be replanted using native plants found in the landscape setting or
39 ecoregion to the maximum extent practicable.
40 (5) All revegetation shall take place within one (1) year of the date an applicant
41 completes the grading.
42 (6) This provision shall take effect on August 3, 2006, ~~two years after the date of~~
43 ~~Management Plan concurrence by the U.S. Secretary of Agriculture~~, or upon approval of
44 a disposal site, which ever comes first.
- 45 2. Cultural Resources and Treaty Rights.
46 a. To the greatest extent practicable, emergency/disaster response actions shall not adversely
47 affect cultural resources. Emergency/disaster response actions shall not affect tribal treaty
48 rights.
49 b. The Forest Service shall determine if a reconnaissance survey or historic survey is
50 necessary within three days after receiving notice that a post-emergency land use application
51 has been received by the responsible official.
52 (1) Reconnaissance surveys shall be conducted by the Forest Service and comply with
53 the standards in Section 40.240.820(A)(3)(d). Reconnaissance survey reports shall
54 comply with the standards in Section 40.240.820(A)(3)(e).

- (2) Historic surveys shall be conducted by the Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.
- c. Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the county shall send a copy of all comments to the Gorge Commission and the tribal governments shall be notified by the responsible official when (1) a reconnaissance survey is required, or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have fifteen (15) calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them.
- d. When written comments are submitted in compliance with subsection (c) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five- ~~(5-)~~ day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the responsible official following the consultation meeting. Consultation meetings and reports shall comply with the standards in Section 40.240.820(B)(1) and Sections 40.240.180(A) and (D).
- e. If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in Sections 40.240.820(A)(1) and (2), and Section 40.240.820(C)(1).
- f. A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in Section 40.240.820(E).
- g. The responsible official shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have fifteen (15) calendar days from the date a survey report is mailed to submit written comments to the Executive Director. The responsible official shall record and address all written comments in the final decision.
- h. The responsible official shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government regarding treaty rights, the responsible official shall justify how the opposing conclusion was reached.
- i. The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:
- (1) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within fifteen (15) calendar days of the date that a notice was mailed.
 - (2) The emergency/disaster response action avoided cultural resources that exist in the project area.
 - (3) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.
 - (4) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

- (a) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or
- (b) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior, 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior, 1983).
3. Natural Resources.
- a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.
- b. Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants shall be the same as those established in Sections 40.240.840, 40.240.850(F), 40.240.860 (F)(4), 40.240.870(G), and 40.240.880(B) and (C).
- c. Wetlands, Streams, Ponds, Lakes, Riparian Areas.
- (1) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the ~~Oregon or~~ Washington Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. State biologists shall respond within fifteen (15) days of the date the application is mailed.
- (2) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:
- (a) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.
- (b) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.
- (3) Impacts to wetlands, streams, ponds, lakes and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.
- (4) If the responsible official, in consultation with the Washington Department of Fish and Wildlife, ~~state wildlife agency~~, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in conclusion with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final order and the aquatic area protection process may conclude.
- (5) Unless addressed through subsection (4) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in Sections 40.240.850(G)(1) and (2). Rehabilitation plans shall also satisfy the following:
- (a) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
- (b) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

- 1 (c) The project applicant shall be responsible for the successful rehabilitation of
2 all areas disturbed by emergency/disaster response activities.
- 3 d. Wildlife Habitat.
- 4 (1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a
5 sensitive wildlife area or site, shall be reviewed by the ~~Oregon~~ or Washington Department
6 of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster
7 response actions have affected or have a potential to affect a sensitive wildlife area or
8 site.
- 9 (2) Site plans for emergency/disaster response sites shall be submitted by the Executive
10 Director to the ~~Oregon~~ or Washington Department of Fish and Wildlife for review as
11 prescribed in Sections 40.240.860(E)(1) and (2). The wildlife agency shall respond within
12 fifteen (15) days of the date the application is mailed.
- 13 (3) The wildlife protection process may terminate if the responsible official, in
14 consultation with the Washington Department of Fish and Wildlife, state wildlife agency,
15 determines (1) the sensitive wildlife area or site was not active, or (2) the
16 emergency/disaster response did not compromise the integrity of the wildlife area or site
17 or occurred at a time when wildlife species are not sensitive to disturbance.
- 18 (4) If the responsible official, in consultation with the Washington Department of Fish and
19 Wildlife, state wildlife agency, determines that the emergency/disaster response activities
20 had minor effects on the wildlife area or site that could be eliminated with simple
21 modifications, a letter shall be sent to the project applicant that describes the effects and
22 measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest
23 Service natural resource advisor (as available) in consultation with the state wildlife
24 biologist, shall visit the site in order to make this determination. If the project applicant
25 accepts these recommendations, the responsible official shall incorporate them into the
26 final decision and the wildlife protection process may conclude.
- 27 (5) If the responsible official, in consultation with the Washington Department of Fish and
28 Wildlife, state wildlife agency, determines that the emergency/disaster response activities
29 had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a
30 Wildlife Management Plan. Wildlife Management Plans shall comply with standards in
31 Section 40.240.860(F). Upon completion of the Wildlife Management Plan, the
32 responsible official shall:
- 33 (a) Submit a copy of the Wildlife Management Plan to the Washington Department of
34 Fish and Wildlife, state wildlife agency, for review. The Washington Department of
35 Fish and Wildlife, state wildlife agency, will have fifteen (15) days from the date that a
36 plan is mailed to submit written comments to the responsible official.
- 37 (b) Record any written comments submitted by the Washington Department of Fish and
38 Wildlife, state wildlife agency, in its development review order. Based on these
39 comments, the Executive Director shall make a final decision on whether the
40 proposed use would be consistent with the wildlife policies and guidelines. If the final
41 decision contradicts the comments submitted by the Washington Department of Fish
42 and Wildlife, state wildlife agency, the Executive Director shall justify how the
43 opposing conclusion was reached.
- 44 (c) Require the project applicant to revise the Wildlife Management Plan as
45 necessary to ensure that the proposed use would not adversely affect a sensitive
46 wildlife area or site.
- 47 e. Deer and Elk Winter Range. Any fencing permanently erected within deer and elk winter
48 range, as a result of an emergency/disaster response, shall comply with the standards in
49 Section 40.240.860(G).
- 50 f. Rare Plants.
- 51 (1) Emergency/disaster response actions occurring within one thousand (1,000) feet of a
52 sensitive plant, shall be reviewed by the ~~Oregon~~ or Washington Natural Heritage
53 Program. State heritage staff will help determine if emergency/disaster response
54 actions have occurred within the buffer zone of a rare plant.

- (2) Site plans for emergency/disaster response sites shall be submitted to the ~~Oregon or~~ Washington Natural Heritage Program by the responsible official. State natural heritage staff will, within fifteen (15) days from the date the application is mailed, identify the location of the affected plants and delineate a two hundred- (200-) foot buffer zone on the applicant's site plan.
 - (3) The rare plant protection process may conclude if the responsible official, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plant buffer zone.
 - (4) If the responsible official, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measure that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision order and the rare plant protection process may conclude.
 - (5) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse effects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan that meets the standards in Section 40.240.870(F).
 - (6) The responsible official shall submit a copy of all protection and rehabilitation plans to the state heritage program for review. The state natural heritage program will have fifteen (15) days from the date the protection and rehabilitation plan is mailed to submit written comments to the responsible official.
 - (7) The responsible official shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the responsible official shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the responsible official shall justify how the opposing conclusion was reached.
 - ~~(7)~~ (8) The responsible official shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rare plant site.
4. Recreational Resources.
- a. To the greatest extent practicable, emergency/disaster response actions shall not adversely affect recreational resources.
 - b. Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

E. Post-Emergency Construction.

Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event is allowed in all land use designations in accordance with Sections 40.240.050, 40.240.100 through 180 (as applicable), and 40.240.800 through 900. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use applications shall be submitted within twelve (12) months following an emergency/disaster event.

GENERAL GUIDELINES

40.240.100 40.240.070 EXEMPT LAND USES AND ACTIVITIES

- 1 A. This chapter shall not apply to:
- 2 1. Any treaty or other rights of any Indian tribes.
- 3 2. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of
- 4 Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the
- 5 Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes.
- 6 This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu"
- 7 fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management
- 8 Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the
- 9 exemption shall commence upon selection by the U.S. Army Corps of Engineers.
- 10 3. Rights to surface or ground water.
- 11 4. Water transportation activities on the Columbia River or its tributaries. The term "activities"
- 12 includes those facilities necessary for navigation.
- 13 5. The operation, maintenance and modification of existing transmission facilities of the Bonneville
- 14 Power Administration.
- 15 6. Laws, rules or regulations pertaining to hunting or fishing.
- 16 7. The operation, maintenance and improvement of navigation facilities at Bonneville Dam pursuant
- 17 to federal law, except for the offsite disposal of excavation material.
- 18 8. In the ~~GMA General Management Area~~, the rights and responsibilities of non-federal timber
- 19 landowners under the Washington Forest Practices Act, or under county regulations that
- 20 supersede those acts.
- 21 ~~The following uses may be permitted when allowed by the land use designation, subject to compliance~~
- 22 ~~with the appropriate scenic, cultural, natural and recreation resources guidelines (Sections 40.240.490~~
- 23 ~~through 40.240.590.~~
- 24
- 25 B. Neither the Forest Service nor the Gorge Commission may establish any buffer zones or protective
- 26 perimeters outside the boundaries of the Scenic Area.
- 27
- 28

29 **40.240.110 40.240.080 PROHIBITED LAND USES AND ACTIVITIES**

30

31 The following land uses and activities shall not be allowed within the Columbia River Gorge National

32 Scenic Area in Clark County:

33

- 34 A. Solid waste disposal sites or sanitary landfills within the ~~SMA. Special Management Area.~~
- 35
- 36 B. New industrial development in the Scenic Area outside of the Urban Areas.
- 37
- 38

39 **40.240.120 USES ALLOWED OUTRIGHT**

40

41 **A. All Land Use Designations Except Open Space.**

- 42 1. The following uses may be allowed without review in all GMA and SMA land use designations,
- 43 except GMA and SMA Open Space:

- 44 a. In the GMA, agricultural uses except new cultivation. Any operation that would cultivate
- 45 land that has not been cultivated, or has lain idle, for more than five (5) years shall be
- 46 considered new cultivation. For this guideline, cultivation and vegetation removal may be
- 47 allowed in conjunction with a home garden.
- 48 b. In the SMA, agricultural uses within previously disturbed and regularly worked fields or areas.
- 49 c. Forest practices in the GMA that do not violate conditions of approval for other approved uses
- 50 and developments.
- 51 d. Repair, maintenance and operation of existing structures, including, but not limited to,
- 52 dwelling, agricultural structures, trails, roads, railroads, and utility facilities.
- 53 e. Accessory structures sixty (60) square feet or less in area and ten (10) feet or less in height,
- 54 unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category
- 55 does not include fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or

utility facilities.

f. Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to five hundred (500) feet in length and less than or equal to ten (10) feet in height that are accessory to an existing dwelling; provided, that woven-wire fences are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

g. Wire-strand fences less than or equal to forty-eight (48) inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/Forest Service natural resource inventories or determined by an appropriate federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

h. The following transportation facilities:

(1) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers; provided, that the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

(2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided, that the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

(3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided, that (1) the signs comply with the Manual on Uniform Traffic Control Devices and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(5) Extensions of existing guardrails less than or equal to fifty (50) feet in length and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

(6) New guardrails and guardrail ends; provided, that the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." This category does not include jersey barriers.

(7) In the GMA, replace and/or expand existing culverts; provided, that the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(8) In the SMA, replace and/or expand existing culverts for ephemeral streams or ditches; provided, that the visible ends of culverts shall be dark and non-reflective.

(9) Resurface or overlay existing paved roads; provided, that the activity does not:

(a) increase the width of a road;

(b) disturb the toe of adjacent embankments, slopes or cut banks; or

- (c) change existing structures or add new structures.
- (10) Apply dust abatement products to non-paved road surfaces.
- (11) Grade and gravel existing road shoulders; provided, that the activity does not:
- (a) increase the width of a road;
- (b) disturb the toe of adjacent embankments, slopes or cut banks; or
- (c) change existing structures or add new structures.
- (12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).
- i. The following underground utility facilities:
- (1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that no excavation would extend beyond the depth and extent of the original excavation.
- (2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility railroad rights-of-way or easements that have been disturbed in the past; provided, that:
- (a) no excavation would extend more than twelve (12) inches beyond the depth and extent of the original excavation;
- (b) no ditch for linear facilities would be more than twenty-four (24) inches wide;
- (c) no excavation for non-linear facilities would exceed ten (10) cubic yards; and
- (d) no recorded archaeological site is located within five hundred (500) feet of the development.
- To comply with subsection (d) above, the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.
- j. The following above-ground and overhead utility facilities:
- (1) Replace existing above-ground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* or a scenic highway corridor strategy for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."
- (2) Replace existing utility poles; provided, that the replacement poles are:
- (a) located within five (5) feet of the original poles;
- (b) no more than five (5) feet taller and six (6) inches wider than the original poles; and
- (c) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.
- (3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.
- k. Flagpoles that are accessory to the principal building on a parcel; provided, that the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.
- l. The following signs:
- (1) Election signs. Removal must be accomplished within thirty (30) days of election day.
- (2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.

- (3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices. Removal must be accomplished within thirty (30) days of project completion.
- (4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting; provided, that such signs are not greater than six (6) square feet in the GMA and two (2) square feet in the SMA.
- (5) Temporary signs advertising civil, social, or political gatherings and activities; provided that such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30) days of the close of the event.
- (6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.
- (7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).
- m. In the GMA, wind machines for frost control in conjunction with an agricultural use.

B. GMA and SMA Open Space.

1. The following uses may be allowed without review in GMA and SMA Open Space:

- a. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.
- b. The following transportation facilities:
 - (1) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers; provided, that the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."
 - (2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes; provided, that the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."
 - (3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.
 - (4) Permanent public regulatory, guide, and warning signs, except those excluded below; provided, that (1) the signs comply with the Manual on Uniform Traffic Control Devices, and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.
 - (5) Extensions of existing guardrails less than or equal to fifty (50) feet in length and new guardrail ends for existing guardrails; provided, that the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or Washington State Route 14 prepared according to the

GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

- (6) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* or a scenic highway corridor for Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors." This category does not include jersey barriers.
- (7) In the GMA, replace and/or expand existing culverts; provided, that the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.
- (8) In the SMA, replace and/or expand existing culverts for ephemeral streams or ditches; provided, that the visible ends of culverts shall be dark and non-reflective.
- (9) Resurface or overlay existing paved roads; provided, that the activity does not:
 - (a) increase the width of a road;
 - (b) disturb the toe of adjacent embankments, slopes or cut banks; or
 - (c) change existing structures or add new structures.
- (10) Apply dust abatement products to non-paved road surfaces.
- (11) Grade and gravel existing road shoulders; provided, that the activity does not:
 - (a) increase the width of a road;
 - (b) disturb the toe of adjacent embankments, slopes or cut banks; or
 - (c) change existing structures or add new structures.
- (12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to thirty (30) feet in length and less than or equal to one thousand (1,000) square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

c. The following underground utility facilities:

- (1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that no excavation would extend beyond the depth and extent of the original excavation.
- (2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past; provided, that:
 - (a) no excavation would extend more than twelve (12) inches beyond the depth and extent of the original excavation;
 - (b) no ditch for linear facilities would be more than twenty-four (24) inches wide;
 - (c) no excavation for non-linear facilities would exceed ten (10) cubic yards; and
 - (d) no recorded archaeological site is located within five hundred (500) feet of the development.

To comply with subsection (d) above, the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation and obtain a letter or other document stating no recorded archaeological site is located within five hundred (500) feet of the development.

d. The following above-ground and overhead utility facilities:

- (1) Replace existing above-ground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants; provided, that the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia*

River Highway Master Plan for the Historic Columbia River Highway or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors."

(2) Replace existing utility poles; provided, that the replacement poles are:

(a) located within five (5) feet of the original poles;

(b) no more than five (5) feet taller and six (6) inches wider than the original poles; and

(c) constructed of natural wood, weathering steel (e.g., Corten), or materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(3) New whip antennas for public service less than or equal to eight (8) feet in height and less than or equal to two (2) inches in diameter, cables, wires, transformers, and other similar equipment; provided, that all such structures are on existing utility poles or towers.

e. The following signs:

(1) Election signs. Removal must be accomplished within thirty (30) days of election day.

(2) "For sale" signs not greater than twelve (12) square feet. Removal must be accomplished within thirty (30) days of close of sale.

(3) Temporary construction site identification, public service company, safety, or information signs not greater than thirty-two (32) square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the Manual on Uniform Traffic Control Devices. Removal must be accomplished within thirty (30) days of project completion.

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting; provided, that such signs are not greater than six (6) square feet.

(5) Temporary signs advertising civil, social, or political gatherings and activities; provided, that such signs do not exceed twelve (12) square feet. Removal must be accomplished within thirty (30) days of the close of the event.

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(7) In the GMA, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

40.240.130 ~~40.240.190(B)~~ AGRICULTURAL BUFFER ZONES IN THE GENERAL MANAGEMENT AREA

All new buildings shall comply with the following setbacks in Table 40.240.130-1 when proposed to be located on a parcel adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture and which are currently used for or are suitable for agricultural use:

A. Setback Guidelines.

Table 40.240.130-1. Type of Buffer (feet from property line of adjacent Agricultural parcel)			
Existing Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Orchards	250'	100'	75'
Row crops/vegetables	300'	100'	75'
Livestock grazing, pasture, haying	100'	15'	20'
Grains	200'	75'	50'

Table 40.240.130-1. Type of Buffer (feet from property line of adjacent Agricultural parcel)			
Existing Type of Agriculture	Open or Fenced	Natural or Created Vegetation Barrier	8-foot Berm or Terrain Barrier
Berries, vineyards	150'	50'	30'
Other	100'	50'	30'

- B. Earth berms may be used to satisfy, in part, the setback guidelines. Berms shall be a minimum of eight (8) feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees and/or grasses shall be planted on the berm to control erosion and achieve a finished height of fifteen (15) feet.
- C. The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least six (6) feet high when planted and reach an ultimate height of at least fifteen (15) feet. The vegetation screen shall be planted along the appropriate parcel line(s), and be continuous.
- D. The necessary berming and/or planting must be completed during the first phase of development and maintained in good condition.
- E. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.
- F. A variance to buffer setbacks may be granted upon a demonstration that the guidelines of Section 40.240.150 have been satisfied.

40.240.140 ~~40.240.190(J)~~ BUFFERS FROM EXISTING RECREATION SITES

If new buildings or structures may detract from the use and enjoyment of established recreation sites, an appropriate buffer shall be established between the building/structure and the parcel.

40.240.150 ~~40.240.190(G)~~ VARIANCES FROM SETBACKS AND BUFFERS (GMA)

- A. ~~In the General Management Area.~~ Variances from setbacks and buffers within the GMA General Management Area shall be reviewed under Administrative Variance criteria of Section 40.550.020, including variance requests in excess of twenty-five (25%), which shall be subject to a Type II review. ~~The following criteria shall also apply:~~ 1. When setbacks or buffers for the protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or non-resource uses, overlap or conflict, the setbacks or buffers may be varied upon a demonstration that:
- ~~1. a. A setback or buffer to protect one resource or use would cause the proposed use to fall within a setback or buffer to protect another resource, and~~
 - ~~2. b. Variation from the specified setbacks or buffers would, on balance, best achieve the protection of the affected resources, and uses provided that resources and buffers or setbacks shall prevail in the event of conflict with non-resource buffers or setbacks.~~
- B. A setback or buffer for protection of scenic, cultural, natural, recreation, agricultural or forestry resources, or non-resource uses, may be varied to allow a residence to be built on a parcel of land upon a demonstration that:
1. The land use designation otherwise authorizes a residence on the tract;
 2. No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer; and
 3. The variance from the specified setback or buffer is the minimum necessary to allow the residence.

- 1 C. The responsible official may grant a variance to the setback and buffer requirements in Section
2 40.240.890, upon finding that the following conditions exist:
3 1. The proposed project is a public use, resource-based recreation facility providing or
4 supporting either recreational access to the Columbia River and its tributaries, or
5 recreational opportunities associated with a Scenic Travel Corridor.
6 2. All reasonable measures to redesign the proposed project to comply with required setbacks
7 and buffers have been explored, and application of those setbacks and buffers would
8 prohibit a viable recreation use of the site as proposed.
9 3. Resource impacts have been mitigated to less than adverse levels through design provisions
10 and mitigation measures.
11 4. The variance is the minimum necessary to accommodate the use.

12
13 **40.240.160 APPLYING NEW LESS-STRINGENT REGULATIONS TO DEVELOPMENT**
14 **APPROVED UNDER PRIOR SCENIC AREA REGULATIONS**
15

16 A landowner may submit a land use application to alter conditions of approval for an existing use or
17 structure approved under prior Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area*
18 *Final Interim Guidelines*, original Management Plan), subject to the following standards:
19

20 A. The applicant shall apply for the same development that was reviewed in the original decision.
21

22 B. The development shall remain in its current location.
23

24 C. The agency that currently has jurisdiction over the applicant's property shall review the application
25 and send notice of the application to agencies and other parties entitled to receive notice under the
26 current rules.
27

28 D. The agency shall review the entire development to ensure that it would fully comply with all the
29 current guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation
30 resources and natural resources).
31

32 E. The agency shall issue a new decision that supersedes the original decision.
33

34 F. The new decision may remove or revise original conditions or approval or add new conditions or
35 approval to ensure full compliance with all the current guidelines.
36
37

38 **40.240.170 ~~40.240.090~~ EXISTING AND DISCONTINUED USES**
39

40 A. Except as otherwise provided, existing uses or structures in the Clark County portion of the Scenic
41 Area may continue, so long as it is used in the same manner and for the same purpose.
42

43 B. Replacement of Existing Structures Not Damaged or Destroyed by Disaster.
44

45 Except as provided in Section 40.240.170(C) below, an existing structure may be replaced if a
46 complete land use application for a replacement structure is submitted to the reviewing agency within
47 one (1) year of the date the use of the original structure was discontinued. The replacement structure
48 shall comply with the following standards:

49 1. The replacement structure shall be used in the same manner and for the same purpose as the
50 original structure.

51 2. The replacement structure may have a different size and/or location than the original structure.
52 An existing mobile home may be replaced with a framed residence and an existing framed
53 residence may be replaced with a mobile home.

54 3. The replacement structure shall be subject to:

55 a. scenic, cultural, recreation and natural resources guidelines;

b. treaty rights guidelines; and

- 1 c. land use designations guidelines involving agricultural buffer zones, approval criteria for fire
2 protection, and approval criteria for siting of dwellings on forest land.
3 4. The original structure shall be considered discontinued if a complete land use application for a
4 replacement structure is not submitted within the one year time frame.
5

6 **C. Replacement of Existing Structures Damaged or Destroyed by Disaster.**

7 An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be
8 replaced if a complete land use application for a replacement structure is submitted to the reviewing
9 agency within two (2) years of the date the original structure was damaged or destroyed. The
10 replacement structure shall comply with the following standards:

- 11 1. The replacement structure shall be used in the same manner and for the same purpose as
12 the original structure. An existing mobile home may be replaced with a framed residence.
13 2. The replacement structure shall be in the same location as the original structure. An
14 exception may be granted and the replacement structure may be sited in a different location
15 if the following conditions exist:
16 a. A registered civil engineer, registered geologist, or other qualified and licensed
17 professional hired by the applicant demonstrates the disaster made the original building
18 site physically unsuitable for reconstruction.
19 b. The new building site is no more visible from key viewing areas than the original building
20 site. An exception may be granted if a registered civil engineer, registered geologist, or
21 other qualified and licensed professional hired by the applicant demonstrates the subject
22 parcel lacks alternative building sites physically suitable for construction that are no more
23 visible from key viewing areas than the original building site.
24 c. The new building site complies with the cultural resources, natural resources, and treaty
25 rights protection guidelines.
26 3. The replacement structure shall be the same size and height as the original structure;
27 provided, that:
28 a. The footprint of the replacement structure may be up to ten percent (10%) larger than the
29 footprint of the original structure.
30 b. The walls of the replacement structure shall be the same height as the walls of the
31 original structure unless a minor increase is required to comply with standards in the
32 current jurisdictional building code.
33 4. The replacement structure shall only be subject to the following scenic resources standards:
34 a. The replacement structure shall comply with the scenic resources guidelines regarding
35 color and reflectivity. These guidelines shall be applied to achieve the applicable scenic
36 standard (visually subordinate or not visually evident) to the maximum extent practicable.
37 b. Decks, verandas, balconies and other open portions of the original structure shall not be
38 rebuilt as enclosed (walls and roof) portions of the replacement structure.
39 c. In the GMA, the replacement structure shall comply with the scenic resources guidelines
40 regarding landscaping. These guidelines shall be applied to achieve the applicable scenic
41 standard (visually subordinate) to the maximum extent practicable; provided, that:
42 (1) Except as provided in Section 40.240.170(C)(4)(c)(2), the percent of the replacement
43 structure screened by vegetation as seen from key viewing areas shall not exceed the
44 percent of the original structure that was screened by vegetation as seen from key
45 viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation
46 and deciduous vegetation shall be replaced with deciduous vegetation unless the
47 applicant chooses to use all coniferous vegetation.
48 (2) In situations where the original structure was approved under Scenic Area regulations
49 (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement
50 structure screened by vegetation shall comply with any conditions of approval that
51 required a landowner to preserve existing vegetation and/or plant and maintain new
52 vegetation to screen the original structure as seen from key viewing areas.
53 (3) To help determine how much vegetation may be required under Sections
54 40.240.170(C)(4)(c)(1) and (2), land use applications shall include all available
55 documentation (photographic or otherwise) on the amount and type of vegetation

- that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:
- (a) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.
 - (b) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.
 - (c) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in ten (10) years.
- (4) The height of any new trees shall not be required to exceed five (5) feet.
- (5) The time frame for achieving visual subordination shall be ten (10) years or less from the commencement of construction.
- d. In the SMA, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable; provided, that:
- (1) The Scenic Resources Implementation Handbook shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).
 - (2) The height of any new trees shall not be required to exceed five (5) feet.
 - (3) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be ten (10) years.
5. The replacement structure shall be pursuant to Sections 40.240.170(B)(1) and B(3) if it would not comply with Sections 40.240.170(C)(2) and (C)(3). ~~(4)~~.
6. The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two- (2-) year time frame.

D. Changes to Existing Uses and Structures.

Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this chapter.

1. Expansion of Existing Commercial and Multifamily Residential Uses. In the Special Management Area, existing commercial and multi-family residential uses may expand as necessary for successful operation on the dedicated site, pursuant to Sections 40.240.800 through 40.240.900 to minimize adverse effects on scenic, cultural, natural and recreation resources. Expansion beyond the dedicated site is prohibited.
2. Expansion of Existing Industrial Uses. In the GMA existing industrial uses may expand as necessary for successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.
3. Conversion of Existing Industrial Uses. In the GMA, existing industrial uses may convert to less intensive uses. A less intensive use is a commercial, recreation or residential use with fewer adverse effects upon scenic, cultural, natural and recreation resources.
4. Existing Development or Production of Mineral Resources. In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to this chapter if any of the following conditions exist:
 - (a) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to fifty percent (50%) of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain which was merely leveled or cleared of vegetation.
 - (b) The site has not maintained a required state permit.
 - (c) The site has not operated legally within five (5) years before the date of adoption of the Management Plan.

- 1 5. Existing Development or Production of Mineral Resources. In the SMA, uses involving the
2 exploration, development or production of sand, gravel or rock may continue if both of the
3 following conditions exist:
4 (a) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to
5 manage or harvest forest products in the Special Management Area; and
6 (b) A determination by the Forest Service finds that the use does not adversely affect the
7 scenic, cultural, natural or recreation resources.

9 E. Discontinuance of Existing Uses and Structures.

10 Except as provided in Section 40.240.170(C), any use or structure that is discontinued for one (1)
11 year or more shall not be considered an existing use or structure. Proof of intent to abandon is not
12 required to determine that an existing use or use of an existing structure has been discontinued.

13 1. Multiple Uses: An existing use or structure with more than one legally established use may
14 discontinue one of the uses without discontinuing the others.

15 2. Change in Use: An existing use or structure shall become discontinued if the use or use of
16 the structure changes.

18 F. Discontinued Uses and Structures.

19 Re-establishment or replacement of any use or structure that has been discontinued shall be subject
20 to all applicable policies and guidelines in the Management Plan, including, but not limited to,
21 guidelines for land use designations and scenic, cultural, recreation and natural resources

24 **40.240.180 ~~40.240.190(H)~~ INDIAN TRIBAL TREATY RIGHTS AND CONSULTATION**

26 **A. New uses located in, or providing recreation river access to, the Columbia River or its fishbearing**
27 **tributaries shall include the following supplemental information:**

- 28 1. The site plan map shall show adjacent river areas at least one-half ($\frac{1}{2}$ -) mile upstream and
29 downstream from the project site, the locations at which river access is planned, and the locations
30 of all tribal fishing sites known to the project applicant.
31 2. The site plan text shall include an assessment of the potential effects that new uses may have
32 on Indian treaty rights. The assessment shall:
33 a. Describe the type of river access and uses proposed, estimated period when the
34 development would be used, and anticipated levels of use (people, boats, and other uses)
35 during peak-use periods.
36 b. List tribal commercial fishing seasons in the project vicinity, as established by the four treaty
37 tribes.
38 c. List tribal ceremonial fishing seasons in the project vicinity.
39 d. Based on the above factors, assess the potential effects that the proposed uses may have
40 on Indian treaty rights.

42 **B. Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The**
43 **protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These**
44 **measures may include reducing the size and modifying the location or design of the proposed uses,**
45 **seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other**
46 **markers delineating fishing net locations.**

48 **C. Indian tribal governments shall have twenty (20) calendar days from the date a notice is mailed to**
49 **submit substantive written comments to the responsible official. Indian tribal governments must identify**
50 **the treaty rights that exist in the project vicinity and explain how they would be affected or modified by**
51 **the new uses.**

53 **D. Tribal Government Consultation.**

- 54 1. When substantive written comments are submitted to a responsible official in a timely manner, the
55 project applicant shall offer to meet with the responsible official and the Indian tribal government

that submitted comments within ten (10) calendar days. The ten- (10-) day consultation period may be extended upon agreement between the project applicant and the Indian tribal government. Consultation meetings should provide an opportunity for the project application and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that the proposed use would not affect or modify treaty or other rights of any Indian tribe.

2. Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.
3. The responsible official shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have thirty (30) calendar days from the date a protection plan is mailed to submit written comments to the responsible official.

E. Conclusion of the Treaty Rights Protection Process.

1. The responsible official shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe. The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the responsible official must justify how it reached an opposing conclusion.
2. The treaty rights protection process may conclude if the responsible official determines that the proposed uses would not affect or modify treaty or other fights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.
3. A finding by the responsible official that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

- F. For new development and uses in the SMA, Special Management Area, the Forest Service shall determine effects on treaty rights and shall notify the responsible official of the determination.

USES AND STRUCTURES ALLOWED IN VARIOUS LAND USE DESIGNATIONS

40.240.200 AGRICULTURAL BUILDINGS

- A. The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

- B. To satisfy Section 40.240.200(A), applicants shall submit the following information with their land use application:

1. A description of the size and characteristics of current agricultural use.
2. An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).
3. A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

40.240.210 40.240.190(D) TEMPORARY USE HARDSHIP DWELLINGS

Temporary use hardship dwellings shall be permitted in the ~~GMA General Management Area~~ and ~~SMA Special Management Area~~ on parcels containing a principal residential dwelling, subject to the following:

- A. The temporary placement of a mobile home may be granted under the following circumstances:
 1. A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.
 2. The hardship dwelling shall use the same subsurface sewage disposal system and well used by the existing dwelling, or utilize existing public sewer and water systems. In all cases well and septic systems shall be used in a manner and location to minimize impacts to resource lands.
 3. The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural and recreation resources of Sections 40.240.800 ~~490~~ through 40.240.900. ~~590 of this chapter.~~
- B. A permit may be issued for a ~~two-~~ (2-) year period, subject to annual review for compliance with the provisions of this rule and any other conditions of approval.
- C. Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within thirty (30) days. A new permit may be granted upon a finding that a family hardship continues to exist.

40.240.220 SEWER AND WATER SERVICES

A. Sewer lines may be extended from an urban area into a rural area to serve:

1. Areas with a documented health hazard.
2. Recreation uses open to the public, only upon a demonstration by the local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an Urban Area boundary.

B. New uses authorized in this chapter may hook up to existing sewer and water lines in rural areas.

40.240.230 ~~(40.240.190(L))~~ DOCKS AND BOATHOUSES

- A. New, private docks and boathouses serving only one (1) family and (1) one property shall be allowed, up to one-hundred twenty (120) square feet in size.
- B. New, private docks, and boathouses serving more than one (1) family and property shall be allowed, up to two hundred (200) square feet in size.
- C. Public docks open and available for public use shall be allowed.
- D. Boathouses may be allowed under Sections 40.240.230(A) and (B) only when accessory to a dwelling and associated with a navigable river or lake.

40.240.240 ~~40.240.190(E)~~ HOME OCCUPATIONS AND COTTAGE INDUSTRIES

Home occupations and cottage industries may be established as authorized in specified land use designations consistent with the following guidelines:

- A. A home occupation may employ only residents of the home.
- B. A cottage industry may employ up to three (3) outside employees.

- 1 C. No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used for
2 the home occupation or cottage industry.
3
- 4 D. No more than five hundred (500) square feet of an accessory structure may be used for a home
5 occupation or cottage industry.
6
- 7 E. There shall be no outside, visible evidence of the home occupation or cottage industry,
8 including outside storage.
9
- 10 F. Exterior structural alterations to the residence for the home occupation or cottage industry shall
11 not be permitted. New structures shall not be constructed for the primary purpose of
12 housing a home occupation or cottage industry.
- 13 G. No retail sales may occur on the premises, except incidental sales at lodging establishments
14 authorized in this chapter.
15
- 16 H. One (1) non-animated, non-illuminated sign, not exceeding two (2) square feet in area, may be
17 permitted on the subject structure or within the yard containing the home occupation or
18 cottage industry.
19
- 20 I. Parking not associated with residential use shall be screened so it is not visible from key
21 viewing areas.
22
- 23 J. In the GMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered
24 a home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250.
25
- 26 K. In the SMA, a bed and breakfast lodging establishment that is two (2) bedrooms or less is considered
27 a home occupation and shall meet the guidelines of Sections 40.240.240 and 40.240.250, except
28 40.240.250(A)(4).
29
30

31 **40.240.250 ~~40.240.190(F)~~ BED AND BREAKFAST INNS**

32
33 Bed and breakfast inns may be established as authorized in specified land use designations
34 pursuant to Section 40.260.050, and the following:

- 35 ~~A.1-~~ Guests may not occupy a facility for more than fourteen (14) consecutive days.
36
- 37 ~~B.2-~~ One non-animated, non-illuminated sign not exceeding four (4) square feet in area may be permitted
38 on the structure or within the yard containing the structure.
39
- 40 ~~C.3-~~ Parking areas shall be screened so as to not be visible from key viewing areas.
41
- 42 ~~D.4-~~ In the SMA, Special Management Area, bed and breakfast inns associated with residential use shall
43 be allowed only in structures that are included in, or eligible for inclusion in, the National
44 Register of Historic Places.
45
- 46 ~~5-~~ ~~a bed and breakfast inn may contain no more than five (5) bedrooms.~~
47
48

49 **40.240.260 SMALL-SCALE FISHING SUPPORT AND FISH PROCESSING OPERATIONS**

50
51 Small-scale fishing support and fish processing operations in conjunction with a family-based commercial
52 fishing business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA
53 Small-Scale Agriculture, subject to the following conditions:
54

- 1 A. The operation shall comply with Section 40.240.180. In addition, if the operation will be located on
2 land designated Small Woodland, then it shall also comply with Sections 40.240.540 and
3 40.240.550.
- 4
- 5 B. The following fishing support activities may be allowed:
6 1. maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing
7 equipment that is used in the family based commercial fishing business; and
8 2. garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-
9 based commercial fishing business.
- 10
- 11 C. The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or
12 freezing of fish that is caught by the family-based commercial fishing business. Other fish processing
13 activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for
14 wholesale pr retail sale.
- 15
- 16 D. The operation shall be located on a lawful parcel that is contiguous with and has direct access to the
17 Columbia River.
- 18
- 19 E. The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall
20 participate in the fishing support and fish processing operation.
- 21
- 22 F. The operation may only employ residents of the dwelling and up to three (3) outside employees.
- 23
- 24 G. No more than twenty-five percent (25%) of the total actual living space of the dwelling may be used
25 for the fishing support and fish processing operation.
- 26
- 27 H. The operation may take place in an existing or new lawful accessory building or an existing
28 agricultural building on the subject parcel. A new building constructed for the purpose of housing a
29 fishing support and fish processing operation shall be considered an accessory building. An existing
30 agricultural building shall not be expanded and a new agricultural building shall not be constructed for
31 the purpose of housing a fishing support and fish processing operation.
- 32
- 33 I. An accessory building used in the fishing support and fish processing operation may be allowed
34 up to twenty-five hundred (2,500) square feet.
- 35
- 36 J. Docks may be allowed as follows:
37 1. One (1) dock serving a parcel with an approved fishing support and fish processing operation
38 may be allowed up to five hundred (500) square feet in size.
39 2. For multiple contiguous parcels each with approved fishing support and fish processing
40 operation, the area of the docks authorized in subsection (J)(1) above may be combined into
41 one (1) dock; provided, that the total size of the dock shall not exceed two thousand (2,000)
42 square feet.
- 43
- 44 K. There shall be no outside visible evidence of the fishing support and fish processing operation,
45 including storage, other than boats and docks.
- 46
- 47 L. No retail sales may occur on the parcel.
- 48
- 49 M. The operation shall only support and process fish caught by residents of the dwelling and up to
50 three (3) outside employees.
- 51 N. Before beginning the operation, applicants shall demonstrate that they have obtained and
52 complied with federal, state and/or local water quality and wastewater permits.
- 53
- 54
- 55

40.240.270 RESOURCE ENHANCEMENT PROJECTS

- 1
2 A. Applications for resource enhancement projects must describe the goals and benefits of the proposed
3 enhancement project. They must also thoroughly document the condition of the resource before and
4 after the proposed enhancement project.
5
6 B. In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry
7 enhancement projects shall comply with the following guidelines:
8 1. Application Requirements. In addition to other applicable requirements, land use applications for
9 quarry enhancement projects shall include perspective drawings of the site as seen from key
10 viewing areas as specified in Section 40.240.800 (B)(15) and a reclamation plan that provides all
11 the applicable information specified in Sections 40.240.800(A)(6)(a) through (e), except: (1) the
12 words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-
13 mining," respectively, and (2) the appropriate state agency or local government does not have to
14 approve the reclamation plan.
15 2. Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural
16 appearance that blends with and emulates surrounding landforms to the maximum extent
17 practicable.
18 3. Natural Resource Standard. Sites shall be replanted using native plants found in the landscape
19 setting or ecoregion to the maximum extent practicable.
20 4. Time Frames. The following time frames shall apply to quarry enhancement projects:
21 a. All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year
22 of the date an applicant begins on-the-ground work.
23 b. All landscaping shall be planted within one (1) year of the date an applicant completes the
24 grading.
25 c. An applicant may request one- (1-) year extension to the one year grading time frame if a
26 project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests
27 shall be considered an administrative action. An applicant shall submit such a request to the
28 reviewing agency after grading has commenced and before the one (1) year grading time
29 frame has expired.
30 d. An applicant may also request one six- (6-) month extension to the one- (1-) year landscaping
31 time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster.
32 Such requests shall be considered an administrative action. An applicant shall submit such a
33 request to the reviewing agency after landscaping has commenced and before the one- (1-)
34 year landscaping time frame has expired.
35
36

37 **40.240.280 DISPOSAL SITES FOR SPOIL MATERIALS FROM PUBLIC ROAD MAINTENANCE**
38 **ACTIVITIES**
39

- 40 A. Application Requirements.
41 In addition to other applicable requirements, land use applications for disposal sites shall include the
42 same information that applicants are required to submit for expansion of existing quarries and
43 production and/or development of mineral resources in the GMA, including, but not limited to:
44 1. A reclamation plan that provides all the applicable information specified in Sections
45 40.240.800(A)(6)(a) through (e), except (1) the words "pre-disposal" and "post-disposal"
46 should replace the words "pre-mining" and "post-mining" and (2) the appropriate state
47 agency or local government does not have to approve the reclamation plan.
48 2. Perspective drawings of the site as seen from key viewing areas as specified in Section
49 40.240.800(B)(15).
50 3. Cultural resource reconnaissance and historic surveys, as required by Section
51 40.240.820(A)(3)(a) and (b), respectively. Disposal sites shall be considered a "large-scale use"
52 according to Section 40.240.820(A)(3)(c).
53 4. Field surveys to identify sensitive wildlife areas or sites and sensitive plants as described in
54 Sections 40.240.860(C) and 40.240.870(C).
55

1 B. Siting Standard.

2 The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to
3 locate the disposal site outside the Scenic Area or inside an Urban Area. At a minimum, the applicant
4 shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing
5 or potential disposal sites located both outside the Scenic Area and inside an Urban Area.

6
7 C. Scenic Resource Standards.

8 Disposal sites shall comply with the same scenic resources protection standards as expansion of
9 existing quarries and production and/or development of mineral resources in the GMA, as follows:

- 10 1. Sites more than three (3) miles from the nearest key viewing area shall be visually
11 subordinate as seen from any key viewing area, pursuant to Section 40.240.800(B)(27). An
12 interim period to achieve compliance with this requirement shall be established before approval.
13 The period shall be based on site-specific topographic and visual conditions, but shall not exceed
14 three (3) years beyond the start of on-the-ground activities.
- 15 2. Sites less than three (3) miles from the nearest key viewing area shall be fully screened from
16 any key viewing area, pursuant to Section 40.240.800(B)(28). An interim period to achieve
17 compliance with this requirement shall be established before approval. The period shall be based
18 on site-specific topographic and visual conditions, but shall not exceed one (1) year beyond the
19 start of on-the-ground activities. Disposal activity occurring before achieving compliance with full
20 screening requirements shall be limited to activities necessary to provide such screening
21 (creation of berms, etc.).
- 22 3. Reclamation plans shall restore the site to a natural appearance that blends with and
23 emulates surrounding landforms and vegetation patterns to the maximum extent practicable.

24
25
26 **40.240.290 COMMERCIAL EVENTS**

27
28 A. Commercial events include weddings, receptions, parties and other small-scale gatherings that are
29 incidental and subordinate to the primary use on a parcel.

30
31 B. Commercial events may be allowed in the GMA except on lands designated Open Space or
32 Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural
33 and recreation resources guidelines:

- 34 1. The use must be in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast
35 inn, or commercial use. If the use is proposed on a property with a building on or eligible for the
36 National Register of Historic Places, it shall be subject to Section 40.240.310 and not the
37 requirements of this section.
- 38 2. The owner of the subject parcel shall live on the parcel and shall operate and manage the use.
- 39 3. A single commercial event shall host no more than one hundred (100) guests.
- 40 4. The use shall comply with the following parking requirements:
 - 41 a. A single commercial event shall include no more than fifty (50) vehicles for guests.
 - 42 b. All parking shall occur on the subject parcel;
 - 43 c. At least two hundred (200) square feet of parking space shall be required for each vehicle;
 - 44 d. Parking areas may be developed using paving blocks, gravel, or other pervious surfaces;
45 asphalt, concrete and other imperious materials shall be prohibited; and
 - 46 e. All parking areas shall be fully screened from key viewing areas.
- 47 5. The owner of the subject parcel may conduct eighteen (18) single events up to one (1) day in
48 length per year.
- 49 6. The owner of the subject parcel shall notify the reviewing agency and all owners of land within five
50 hundred (500) feet of the perimeter of the subject parcel of each planned event. The notice shall
51 be in writing and shall be mailed at least seven (7) calendar days before an event.
- 52 7. Tents, canopies, portable restrooms and other similar temporary structures necessary for a
53 commercial event may be allowed; provided, that all such structures are erected or placed on the
54 subject parcel no more than two (2) days before the event and removed no more than two (2) days

- 1 after the event. Alternatively, temporary structures may remain in place for up to ninety (90) days
2 if they are fully screened from key viewing areas.
- 3 8. The use may be allowed upon demonstration that the following conditions exist to protect any
4 nearby agricultural and forest operations:
- 5 a. The use would not force a change in or increase the cost of accepted agricultural practices on
6 surrounding lands.
- 7 b. The use would be set back from any abutting parcel designated Large Scale or Small Scale
8 Agriculture, as required in Section 40.240.130 or designated Commercial Forest Land or Large
9 or Small Woodland, as required in Section 40.240.550.
- 10 c. A declaration has been signed by the landowner and recorded into county deeds and records
11 specifying that the owners, successors, heirs and assigns of the subject parcel are aware that
12 adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices
13 on lands designated Large Scale or Small Scale Agriculture, Commercial Forest Land or Large
14 or Small Woodland.
- 15 d. All owners of land in areas designated Large Scale or Small Scale Agriculture, Commercial
16 Forest Land, or Large or Small Woodland that is within five hundred (500) feet of the perimeter
17 of the subject parcel on which the use is proposed to be located have been notified and given
18 at least ten (10) days to comment prior to a decision.
- 19 e. Counties may impose additional requirements to address potential impacts to surrounding
20 neighbors. For example, they may limit noise, lighting and operating hours.
- 21 f. Land use approvals for commercial events shall not be valid for more than two (2) years.
22 Landowners must reapply for the use after a land use approval expires.

23 24 25 **40.240.300 ~~40.240.200~~ SIGNS**

- 27 A. Signs may be allowed pursuant in all zoning districts in the GMA General Management Area to the
28 following provisions:
- 29 1. Except for signs along public highways necessary for public safety, traffic control or road
30 construction which are consistent with the Manual on Uniform Traffic Control Devices, the
31 following signs are prohibited:
- 32 a. Luminous signs or those with intermittent or flashing lights. These include neon signs,
33 fluorescent signs, light displays and other signs which are internally illuminated, exclusive of
34 seasonal holiday light displays.
- 35 b. New billboards;
- 36 c. Signs with moving elements; and
- 37 d. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of
38 the vehicle.
- 39 2. Any sign which does not conform with a provision of this section and has existed prior to adoption
40 of the Management Plan shall be considered non-conforming and subject to the following:
- 41 a. Alteration of existing non-conforming signs shall comply with this section.
- 42 b. Any non-conforming sign used by a business must be brought into conformance concurrent
43 with any expansion or change in use which requires a development permit.
- 44 3. All signs shall meet the following guidelines unless they conflict with the Manual on Uniform Traffic
45 Control Devices for public safety, traffic control or highway construction signs. In such cases, the
46 standards in the Manual on Uniform Traffic Control Devices shall supersede these guidelines.
- 47 a. The support structure shall be unobtrusive and have low visual impact.
- 48 b. Lettering colors with sufficient contrast to provide clear message communication shall be
49 allowed. Colors of signs shall blend with their setting to the maximum extent practicable.
- 50 c. Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.
- 51 d. Spot lighting of signs may be allowed where needed for night visibility. Backlighting is not
52 permitted for signs.
- 53
- 54 B. Signs in the SMA Special Management Area shall be allowed pursuant to the following provisions:
- 55 1. Prohibited Signs.

- a. Advertising billboards.
- b. Signs that move or give the appearance of moving, except signs used for highway construction, warning or safety.
- c. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning or safety.
2. Pre-existing signs are allowed to continue; provided, that no changes occur in size, structure, color, or message.
3. New signs shall be allowed as specified in the applicable zoning district.
4. No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.
5. Except for signs allowed without review pursuant to Section 40.240.120, all new signs shall meet the following guidelines, and be consistent with the Manual on Uniform Traffic Control Devices:
 - a. Signs shall be maintained in a neat clean and attractive condition.
 - b. The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.
 - c. Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.
 - d. Signs shall be unobtrusive and have low contrast with the setting.
 - e. The visual impact of the support structure shall be minimized.
 - f. Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.
 - g. Backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.
 - h. Sign internal illumination or backlighting shall not be permitted except for highway construction, warning or safety.
6. Public signs shall meet the following guidelines in addition to subsections (B)(2) through (B)(5) above:
 - a. The Graphic Signing System provides design guidelines for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.
 - b. Signs located outside public road rights-of-way are encouraged to be designed in such a way as to be consistent with similar purpose signs described in the Graphic Signing System.
 - c. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.
7. Signs for public and commercial recreation facilities, home occupations, and commercial uses shall meet the following guidelines in addition to subsections (B)(2) through (B)(6) above:
 - a. Any sign advertising or relating to a business which is discontinued for a period of thirty (30) consecutive days shall be presumed to be abandoned and shall be removed within thirty (30) days thereafter, unless permitted otherwise by the jurisdictional authority.
 - b. Any signs relating to, or advertising, a business shall be brought into conformance with these sign guidelines prior to any expansion or change in use which is subject to review.
 - c. Off-site and on-site directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted on-site, but should be kept to the minimum required to achieve the purpose(s) of the facilities.
 - d. Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding sixteen (16) square feet.
 - e. Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.
8. Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

40.240.310 SPECIAL USES IN HISTORIC BUILDINGS

Special uses in historic buildings are allowed pursuant to the following:

A. For the purposes of this section, 'historic buildings' means buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Section 40.240.310(C)(1)(a).

B. Additional review uses for historic buildings.

1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to the guidelines of Sections 40.240.800 through 40.240.900, and subsections 40.240.310(C)(1)(b) through (e) and 40.240.310(C)(2) through (4).
2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to the guidelines of Sections 40.240.800 through 40.240.900, and subsections 40.240.310(C)(1)(b)(1) and (2), 40.240.310(C)(1)(c) through (e), and 40.240.310(C)(2) through (4). The capacity of restaurant use and overnight accommodation shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties, and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.
3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than one hundred (100) square feet and incidental and subordinate to the primary use of the property, subject to the guidelines of Sections 40.240.800 through 40.240.900, and subsections 40.240.310(C)(1)(b)(1) and (2), 40.240.310(C)(1)(c) through (e), and 40.240.310(C)(2) through (4). Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.
4. The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register of Historic Places and that was fifty (50) years old or older as of January 1, 2006, subject to the guidelines of Sections 40.240.800 through 40.240.900, and Section 40.240.310(C):
 - a. Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building as the building existed on January 1, 2006, including any decks, terraces, or patios also existing as of that date. Banquets, private parties, and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered part of the approved use.
 - b. Overnight accommodations, and the room capacity of such accommodations shall be limited to the number of existing rooms in the historic building as of January 1, 2006.
 - c. Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property.
 - d. Wineries, upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed on January 1, 2006.
 - e. Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed on January 1, 2006.
 - f. Conference and/or retreat facilities within a historic building, as the building existed on January 1, 2006.
 - g. Artists studios and galleries within a historic building, as the building existed on January 1, 2006.
 - h. Gift shops within a historic building, as the building existed on January 1, 2006, that are:
 - (1) incidental and subordinate to another approved use included in Section 40.240.310(B)(4), and

- 1 (2) no larger than one hundred (100) square feet.
- 2 i. Interpretative displays, picnic areas or other recreational day use activities on the subject
- 3 property.
- 4 j. Parking areas on the subject property to support any of the uses in this subsection.
- 5 5. Uses in subsections (B)(1) and (B)(4)(C) are not subject to the requirements of Section
- 6 40.240.290. Commercial events at historic properties are regulated by this section. Applications
- 7 for commercial events shall meet the requirements of Section 40.240.310(C)(1)(b)(4). The
- 8 following apply to commercial events at historic buildings:
- 9 a. Commercial events include weddings, receptions, parties, and other gatherings that are
- 10 incidental and subordinate to the primary use of the parcel.
- 11 b. The owner of the subject property shall notify the reviewing agency and all owners of land
- 12 within five hundred (500) feet of the perimeter of the subject property of each event. The
- 13 notice shall be in writing and shall be mailed at least seven (7) calendar days before an
- 14 event.
- 15 6. Uses in subsections (B)(3) and (B)(4)(I) are not subject to the parking limits in Section
- 16 40.240.890. and 40.240.900.
- 17 7. Land use approvals for special uses in historic buildings shall be subject to review by the local
- 18 government every five years from the date the original approval was issued. As part of this
- 19 review, the applicant shall submit to the responsible official documentation on the progress made
- 20 in implementing the Protection and Enhancement Plan required by Section 40.240.310(C)(1)(b).
- 21 The responsible official shall submit a copy of such documentation to the State Historic
- 22 Preservation Officer (SHPO). The SHPO shall have thirty (30) calendar days from the date this
- 23 information is mailed to submit written comments to the responsible official. If the responsible
- 24 official's determination contradicts comments from the SHPO, the responsible official shall justify
- 25 how the opposing conclusion was reached. The responsible official shall revoke the land use
- 26 approval if the owner has failed to implement the actions described in the Protection and
- 27 Enhancement Plan according to the schedule for completing such actions in this plan. The
- 28 responsible official, however, may allow such a use to continue for up to one (1) additional year
- 29 from the date it is determined that the applicant has failed to implement the actions if the
- 30 applicant submits a written statement describing unforeseen circumstances that prevented the
- 31 applicant from completing the specified actions according to the approved schedule, what
- 32 progress the applicant has made towards completing such actions, and a proposed revised
- 33 schedule for completing such actions.
- 34 8. In the event a court enters a judgment that one or more of the use authorizations provided for in
- 35 subsection (B)(1) through (B)(4) are invalid, the authorizations for other uses in this subsection
- 36 are severed and will remain in effect.
- 37
- 38 C. Additional resource protection standards for uses in historic buildings. The following standards apply
- 39 to the proposed uses listed in subsection (B) above, in addition to the requirements of Sections
- 40 40.240.800 through 40.240.900:
- 41 1. Cultural resources.
- 42 a. All applications for uses listed in Section 40.240.310(B)(4) shall include a historic survey and
- 43 evaluation of eligibility for the National Register of Historic Places, to be prepared by a
- 44 qualified professional hired by the applicant. The evaluation of eligibility shall not be required
- 45 for buildings previously determined to be eligible. For such properties, documentation of a
- 46 prior eligibility determination shall be included in the application. The historic survey shall
- 47 meet the requirements specified in "Historic Surveys and Reports" (Management Plan, page
- 48 I-58). The evaluation of eligibility shall follow the process and include all information specified
- 49 in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation"
- 50 (National Park Service, National Register Bulletin #15). Eligibility determinations shall be
- 51 made by the responsible official, based on input from the SHPO. The responsible official
- 52 shall submit a copy of any historic survey and evaluation to the SHPO. The SHPO shall have
- 53 thirty (30) calendar days from the date this information is mailed to submit written comments
- 54 on the eligibility of the property to the responsible official. If the responsible official's

- determination contradicts comments from the SHPO, the responsible official shall justify how the opposing conclusion was reached.
- b. Applications for Special Uses for Historic Buildings shall include a Protection and Enhancement Plan which shall include the following:
- (1) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completing such actions.
 - (2) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.
 - (3) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g., parking areas, site for temporary structures, interpretive displays) shall be shown on the use plan.
 - (4) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the Protection and Enhancement Plan. The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at a minimum, address:
 - (a) Number of events to be held annually;
 - (b) Maximum size of events, including number of guests and vehicles at the proposed parking area;
 - (c) Provisions for temporary structures, including location and type of structures anticipated; and
 - (d) How the proposed commercial events will contribute to protection and enhancement of the historic resource.
- c. The responsible official shall submit a copy of the Protection and Enhancement Plan to the SHPO. The SHPO shall have thirty (30) calendar days from the date this information is mailed to submit written comments to the responsible official. The SHPO shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.
- d. The proposed use has been determined by the responsible official to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the responsible official's final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how it reached its opposing conclusion.
- e. Proposed alterations to the building or surrounding area associated with the proposed use have been determined by the responsible official to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If the responsible official's final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how it reached its opposing conclusion.
2. Scenic Resources.
- a. New parking areas associated with the proposed use shall be located on the subject property as it existed on January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt and other impervious materials shall be prohibited.
 - b. New parking areas associated with the proposed use shall be visually subordinate from key viewing areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordination. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from key viewing areas, if such vegetation would not adversely affect the historic character of the building's setting.

- 1 c. Temporary structures associated with a commercial event (i.e., tents, canopies, portable
2 restrooms) shall be placed on the subject property no earlier than two (2) days before the
3 event and removed within two (2) days after the event. Alternatively, temporary structures
4 may remain in place for up to ninety (90) days after the event if the responsible official
5 determines that they will be visually subordinate from key viewing areas.
6 3. Recreation resources. The proposed use shall not detract from the use and enjoyment of existing
7 recreation resources on nearby lands.
8 4. Agricultural and Forest Lands.
9 a. The proposed use is compatible with and will not interfere with accepted forest or agricultural
10 practices on nearby lands devoted to such uses.
11 b. The proposed use will be sited to minimize the loss of land suitable for production of crops,
12 livestock, or forest products.
13 c. A declaration has been signed by the landowner and recorded into county deeds and records
14 specifying that the owners, successors, heirs and assigns of the subject property are aware
15 that adjacent and nearby operators are entitled to carry on accepted agriculture or forest
16 practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special,
17 Commercial Forest Land, or Large or Small Woodland.
18 d. All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-
19 Special, Commercial Forest Land, or Large or Small Woodland that are within five hundred
20 (500) feet of the perimeter of the subject property on which the use is proposed to be located
21 have been notified and given at least ten (10) days to comment prior to a decision on an
22 application for a Special Use for a Historic Building.
23
24

25 **LAND DIVISIONS AND LOT LINE ADJUSTMENTS**

26 **40.240.370 40.240.190(A) LAND DIVISIONS AND CLUSTER DEVELOPMENT**

- 27
28
29
30 A. New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land
31 acquisition by the federal government to achieve the policies and guidelines in the Management Plan.
32
33 B. New land divisions shall be permitted in the ~~GMA General Management Area~~ if the following are met:
34 1. Proposed land divisions comply with Chapters 40.510 and ~~40.580~~ and the procedural
35 requirements of Chapters 40.520 and 40.540. Divisions of land resulting in four (4) or fewer lots
36 shall be reviewed under the procedures of Section 40.540.030 and Section 40.510.020. Divisions
37 of land resulting in five (5) or more lots shall be reviewed under the procedures of Section
38 40.540.040 and Section 40.510.030.
39 2. Lots resulting from such proposed land divisions shall comply with all applicable provisions of this
40 chapter, including minimum specified lot sizes and associated zoning maps.
41
42 C. Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be
43 subject to the guidelines of this chapter.
44
45 D. At the time of creation of one or more new parcels, consolidation of access shall be considered in
46 order to reduce adverse effects on scenic, cultural, natural and recreation resources.
47
48 E. Where authorized in Sections 40.240.430(A)(20), 40.240.510(A)(20), and 40.240.650(F) a land
49 division in the GMA may create parcels smaller than the designated minimum size and may include a
50 bonus, as specified under Section 40.240.370(G) below, in order to cluster new dwellings. Approval
51 of cluster development shall be contingent upon submission of plans specifying dwelling sites and
52 areas of permanent, undeveloped open land. To approve a cluster development, the local
53 government must find that clustering new dwellings will provide a siting opportunity not available

through conventional parcel-by-parcel development. These opportunities include siting the new dwellings to:

1. Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas;
2. Avoid significant landscape features;
3. Protect the existing character of the landscape setting;
4. Reduce interference with movement of deer or elk in winter range;
5. Avoid areas of known cultural resources;
6. Consolidate road access, septic drainfields, or other development features to reduce impacts associated with grading or ground disturbance;
7. Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or other natural resources; and
8. Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

F. In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. The local government shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development may be smaller than one (1) acre in a five- (5-) acre Residential or ten- (10-) acre Residential designation or two (2) acres in a Small-Scale Agriculture or Small Woodland designation.

G. In the GMA, cluster development may create up to twenty-five percent (25%) more parcels than otherwise allowed by the minimum parcel size on lands designated five- (5-) acre Residential or ten- (10-) acre Residential and up to fifty percent (50%) more on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.

H. In the GMA, at least seventy-five percent (75%) of land subject to a cluster development shall be permanently protected as undeveloped land.

I. In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

40.240.380 LOT LINE ADJUSTMENTS

A. The following guidelines shall apply to lot line adjustments in the GMA:

1. Lot line adjustments for parcels in all land use designations except Open Space, Commercial, Public Recreation, or Commercial Recreation shall comply with the following standards:
 - a. The lot line adjustment shall not result in the creation of any new parcel(s).
 - b. The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the minimum density allowed by the land use designation(s) for the affected parcels.
 - c. The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment, except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources; provided, that the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.
 - d. The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:
 - (1) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements; provided, that (1) the parcel to be enlarged

- 1 would not become eligible for a subsequent land division and (2) the amount of land
2 transferred would be the minimum necessary to resolve the issue.
3 (2) Allow a public or non-profit entity to acquire land for the purpose of protecting
4 and enhancing scenic, cultural, recreation or natural resources; provided, that the land to
5 be acquired would be protected by a conservation easement or other similar property
6 restriction that precludes future land divisions and development.
7 e. The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale
8 Agriculture, Commercial Forest Land, Large Woodland or Open Space to be extended into
9 another land use designation for the purpose of establishing a dwelling under less stringent
10 guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel
11 designated Rural Center or Residential).
12 f. The lot line adjustment shall not allow previously approved parcels or developments to
13 violate conditions of approval or become out of compliance or further out of compliance with
14 existing land use and resource protection guidelines, including, but not limited to,
15 requirements for buffer zones and landscaping.
16 g. The lot line adjustment shall not result in a parcel that cannot comply with existing land
17 use and resource protection guidelines, including, but not limited to requirements for
18 buffer zones and landscaping.
19 2. Lot line adjustments for parcels designated Open Space shall comply with the following
20 standards:
21 a. The lot line adjustment may be allowed upon demonstration that it is necessary to
22 facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources.
23 There is no specified minimum parcel size for parcels designated Open Space.
24 b. The lot line adjustment shall comply with subsections (A)(1)(a), (e), (f) and (g) above.
25 3. Lot line adjustments for parcels designated Commercial shall comply with subsections
26 (A)(1)(a), (e), (f) and (g) above.
27 4. Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall
28 comply with the following standards:
29 a. The lot line adjustment may be allowed upon demonstration that it is necessary to
30 facilitate, enhance, or otherwise improve recreation uses on the parcel. There are no
31 specified minimum parcel sizes for parcels designated Public Recreation or Commercial
32 Recreation.)
33 b. The lot line adjustment shall comply with subsections (A)(1) (a), (e), (f) and (g) above.
34
35 B. The following guidelines shall apply to lot line adjustments in the SMA:
36 1. The proposed lot line adjustment shall not result in the creation of any new parcel(s).
37 2. A lot line adjustment shall not result in a parcel greater than or equal to forty (40) acres
38 becoming less than forty (40) acres.
39 3. A lot line adjustment shall not result in a parcel less than forty (40) acres becoming forty (40)
40 acres or greater.
41 4. A parcel that is smaller than forty (40) acres shall not be reduced in size, except to accomplish
42 one of the following purposes:
43 a. Resolve boundary line disputes, correct physical encroachments, provide reasonable
44 access, or meet buffer or set back requirements; provided, that (1) the parcel to be
45 enlarged would not become forty (40) acres or greater and (2) the amount of land
46 transferred would be the minimum necessary to resolve the issue.
47 b. Allow a public or non-profit entity to acquire land for the purpose of protecting and
48 enhancing scenic, cultural, recreation or natural resources; provided, that the land to be
49 acquired would be protected by a conservation easement or other similar property
50 restriction that precludes residential development.
51 5. The lot line adjustment shall not cause previously approved parcels or development to violate
52 conditions of approval or become out of compliance or further out of compliance with existing
53 land use and resource protection guidelines, including, but not limited to, requirements for
54 buffer zones and landscaping.
55 6. The lot line adjustment shall not result in a parcel that cannot comply with existing resource

1 protection guidelines, including, but not limited to requirements for buffer zones and
2 landscaping.

3 4 5 **40.240.390 CONSOLIDATION OF LOTS**

- 6
7 A. A unit of land shall be consolidated with adjacent lands in the same ownership if the unit of land:
8 1. is smaller than the current minimum parcel size;
9 2. is located within a final subdivision, division of land created by record of survey, or division of
10 land created by other mean of greater than four (4) lots; and
11 3. is older than five (5) years from the date of filing.
12 B. No portion of a consolidated plat shall be considered a separate parcel solely because an existing
13 parcel overlays, and possibly fragments, that consolidated subdivision.
14
15 C. Section 40.240.390(A) shall not be applied to consolidate two (2) or more units of land where each
16 unit of land is developed with a dwelling that qualifies as an existing use or is subject to a fully
17 complete application to develop a dwelling. One or more undeveloped units of land shall be
18 consolidated with one or more developed units of land.
19
20

21 **LAND USE DESIGNATIONS**

22 23 24 **40.240.400 ~~40.240.210~~ AGRICULTURAL LAND DESIGNATIONS**

25
26 Sections 40.240.400 through 40.240.470 shall apply to those areas zoned Gorge Large-Scale or Small-
27 Scale Agriculture, Gorge SMA-Agriculture, on the Scenic Area Land Use Designation Map.
28
29

30 **40.240.410 ~~40.240.220~~ USES ALLOWED OUTRIGHT-AGRICULTURAL LAND**

31
32 The uses listed in Section 40.240.120(A) are allowed without review on lands designated Large-Scale
33 Agriculture, Small-Scale Agriculture, or SMA Agriculture.
34
35

36 **40.240.420 USES ALLOWED THROUGH THE EXPEDITED DEVELOPMENT REVIEW PROCESS-** 37 **AGRICULTURAL LAND**

38
39 The uses listed in Section 40.240.060 are allowed with review through the expedited development review
40 process on lands designated Large-Scale Agriculture, Small-Scale Agriculture, or SMA Agriculture.
41
42

43 **40.240.430 ~~40.240.230~~ REVIEW USES--AGRICULTURAL LAND**

- 44
45 A. The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture
46 pursuant to compliance with Sections 40.240.800 through 40.240.900:
47 1. New cultivation, pursuant to compliance with Sections 40.240.820 through 40.240.870.
48 2. Agricultural structures, except buildings, in conjunction with agricultural use.
49 3. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
50 agricultural use that a landowner would initiate within (1) one year and complete within five (5)
51 years, pursuant to Section 40.240.200.
52 4. Accessory structures for an existing or approved dwelling that are not otherwise allowed
53 outright, eligible for the expedited development review process, or allowed in subsections (A)(5)
54 and (6) below.
55 5. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10)

- 1 feet in height for a dwelling on any legal parcel less than or equal to (ten) 10 acres in size are
2 subject to the following additional standards:
3 a. The combined footprints of all accessory buildings on a single parcel shall not exceed fifteen
4 hundred (1,500) square feet in area. This combined size limit refers to all accessory
5 buildings on a parcel, including buildings allowed without review, existing buildings
6 and proposed buildings.
7 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
8 6. Accessory buildings(s) larger than two hundred (200) square feet in area or taller than ten (10)
9 feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to
10 the following additional standards:
11 a. The combined footprints of all accessory buildings on a single parcel shall not exceed
12 twenty-five hundred (2,500) square feet in area. This combined size limit refers to all
13 accessory buildings on a parcel, including buildings allowed without review, existing
14 buildings and proposed buildings.
15 b. The footprint of any individual accessory building shall not exceed fifteen hundred
16 (1,500) square feet.
17 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
18 7. The temporary use of a mobile home in the case of a family hardship, pursuant to Section
19 40.240.210.
20 8. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling in conjunction with
21 agricultural use, upon a demonstration that all of the following conditions exist:
22 a. The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has
23 no other dwellings that are vacant or currently occupied by persons not directly engaged in
24 farming or working on the subject farm or ranch and that could be used as the principal
25 agricultural dwelling; and
26 b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural
27 use, where the day-to-day activities of one or more residents of the agricultural dwelling will
28 be principally directed to the agricultural use of the land. Current use includes a minimum
29 area which would satisfy Section 40.240.430(A)(8)(c)(4) below; and
30 c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the
31 following factors:
32 (1) Size of the entire farm or ranch, including all land in the same ownership;
33 (2) Type(s) of agricultural uses (crops, livestock) and acreage;
34 (3) Operational requirements for the particular agricultural use that are common to other
35 agricultural operations in the area; and
36 (4) Income capability. The farm or ranch, and all its constituent parcels, is capable of producing
37 at least \$40,000 in gross annual income. This determination shall be made using the
38 following formula:
39
40
$$(A)(B)(C) = I \quad \text{where}$$

41 A = Average yield of the commodity per acre, or unit of production
42 B = Average price of the commodity
43 C = Total acres suitable for production, or total units of production that can be
44 sustained, on the subject farm or ranch
45 I = Income Capability
46
47 9. On lands zoned Gorge Large-Scale Agriculture, a second single-family dwelling in conjunction
48 with agricultural use when the dwelling would replace an existing dwelling which is included in,
49 or is eligible for inclusion in, the National Register of Historic Places, in accordance with the
50 criteria for use in evaluating the eligibility of cultural resources contained in the National
51 Register Criteria for Evaluation (36 CFR 60.4).
52 10. On lands zoned Gorge Small-Scale Agriculture, a single-family dwelling on any legally existing
53 parcel.

- 1 11. On lands zoned Gorge Large-Scale Agriculture, a single-family dwelling for an agricultural
2 operator's relative; provided, that all of the following conditions exist:
 - 3 a. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural
4 operator's spouse who will be actively engaged in the management of the farm or ranch.
5 Relative means grandparent, grandchild, parent, child, brother or sister;
 - 6 b. The dwelling would be located on the same parcel as the dwelling of the principal operator;
7 and
 - 8 c. The operation is a commercial enterprise as determined by Section 40.240.430(A)(8)(c).
- 9 12. Construction, reconstruction or modifications of roads not in conjunction agriculture.
- 10 13. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or
11 natural resources, pursuant to Section 40.240.270. These projects may include new structures
12 (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused
13 roads, recontouring abandoned quarries).
- 14 14. Towers and fire stations for forest fire protection.
- 15 15. Agricultural labor housing upon a showing that:
 - 16 a. The proposed housing is necessary and accessory to a current agricultural use;
 - 17 b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is
18 necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use
19 shall not exceed nine (9) months; and
 - 20 c. The housing will be located to minimize the conversion of lands capable of production of
21 farm crops or livestock and shall not force a significant change in or significantly increase the
22 cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
- 23 16. On lands designated Gorge Large-Scale Agriculture, on a parcel which was legally created and
24 existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural
25 use upon a demonstration that all of the following conditions exist:
 - 26 a. The dwelling will not force a change in or increase the cost of accepted agricultural practices
27 on surrounding lands.
 - 28 b. The subject parcel is predominantly unsuitable for the production of farm crops and
29 livestock, considering soils, terrain, location and size of the parcel. Size alone shall not be
30 used to determine whether a parcel is unsuitable for agricultural use. An analysis of
31 suitability shall include the capability of the subject parcel to be utilized in conjunction with
32 other agricultural operations in the area.
 - 33 c. The dwelling shall be set back from any abutting parcel designated Gorge Large-Scale, or
34 Small-Scale Agriculture, as required in Section 40.240.130(A) or any abutting parcels zoned
35 Gorge Large or Small Woodland, as required in Section 40.240.140(A).
 - 36 d. A declaration has been signed by the landowner and recorded into county deeds and
37 records specifying that the owners, successors, heirs and assigns of the subject property are
38 aware that adjacent and nearby operators are entitled to carry on accepted agriculture or
39 forest practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge
40 Small Woodland.
 - 41 e. All owners of land in areas zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge
42 Small Woodland within five hundred (500) feet of the perimeter of the subject parcel on
43 which the dwelling is proposed to be located have been notified and given at least ten (10)
44 days to comment prior to a decision.
- 45 17. On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the
46 designated minimum parcel size, pursuant to Section 40.240.370. If the designated minimum
47 parcel size is twenty (20) acres, this provision will apply to parcels forty (40) acres in size or
48 larger. Similarly, if the designated minimum parcel size is forty (40), eighty (80), or one-
49 hundred sixty (160) acres, this provision will apply to parcels eighty (80) acres or larger, on-
50 hundred sixty (160) acres or larger, or three-hundred twenty (320) acres or larger,
51 respectively.
- 52 18. Life estates, pursuant to Section 40.240.450.
- 53 19. Land divisions, pursuant to Section 40.240.370.
- 54 20. Lot line adjustments that would result in the potential to create additional parcels through
55 subsequent land divisions, pursuant to Section 40.240.380.

21. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.
 22. Docks and Boathouses, pursuant to Section 40.240.230.
 23. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.
 24. Commercial events, pursuant to Section 40.240.290.
 25. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.
- B. The following uses may be allowed on lands zoned Gorge SMA-Agriculture, pursuant to compliance with Sections 40.240.800 through 40.240.900. The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:
1. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of Section 40.240.510(B)(24).
 2. Forest uses and practices as allowed in Section 40.240.510(B)(25).
 3. A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:
 - a. The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.
 - b. The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one (1) or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy guideline (c)(4) below.
 - c. The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:
 - (1) Size of the entire farm or ranch, including all land in the same ownership.
 - (2) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.
 - (3) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.
 - (4) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula with periodic adjustments for inflation:
- $$(A)(B)(C) = I \quad \text{where}$$
- A = Average yield of the commodity per acre or unit of production
 B = Average price of the commodity
 C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
 I = Income capability
- d. Minimum parcel size of forty (40) contiguous acres.
- ~~3. Accessory structures, greater than 60 square feet.~~
4. Farm labor housing on a parcel with an existing dwelling under the following conditions: and agricultural buildings upon a showing that the following
- a. The proposed housing is necessary and accessory to a current agricultural use and a showing that the operation is a commercial agricultural enterprise as determined by Section 40.240.430(B)(3)(c).
 - b. The housing ~~or building~~ shall be seasonal unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed nine months.

- c. The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.
5. Agricultural structures, except buildings, in conjunction with agricultural use.
6. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to Section 40.240.200.
7. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (B)(8) and (B)(9) below.
8. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject to the following additional standards.
 - a. The combined footprints of all accessory buildings on a single parcel shall not exceed fifteen hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
9. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the following additional standards:
 - a. The combined footprints of all accessory buildings on a single parcel shall not exceed twenty-five hundred (2,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 - b. The footprint of any individual accessory building shall not exceed fifteen hundred (1,500) square feet.
 - c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
10. Home occupations pursuant to Section 40.240.240. The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.
11. Bed and breakfast inns pursuant to Section 40.240.250. The use or development shall be compatible with agricultural use. Buffer zones should be considered to agricultural practices from conflicting uses.
12. Fruit stands and produce stands upon a showing that sales will be limited to products raised on the property and other agriculture properties in the local region.
13. Aquaculture.
14. Exploration, development, and production of sand, gravel, and crushed rock as defined by Section 40.240.010(B), for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands with SMA Special Management Area, pursuant to Sections 40.240.040 and 40.240.800, and all applicable Federal, State and county standards.
15. Utility facilities necessary for public service upon a showing that:
 - a. There is no alternative location with less adverse effect on Agriculture lands.
 - b. The size is the minimum necessary to provide the service.
16. Temporary asphalt/batch plant operations related to public road projects, not to exceed six (6) months.
17. Community facilities and non-profit facilities related to agricultural resource management.
18. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
19. Expansion of existing non-profit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

20. Public recreation, commercial recreation, interpretive and educational developments and uses consistent with Section 40.240.900.
21. Road and railroad construction and reconstruction.
22. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.
23. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, pursuant to Section 40.240.210.
24. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.
25. Docks and boathouses, pursuant to Section 40.240.230.
26. Demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.
27. Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, pursuant to Section 40.240.280.
28. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

40.240.440 40.240.240 REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA, LARGE-SCALE OR SMALL-SCALE AGRICULTURE DESIGNATIONS

The following uses may be allowed on lands zoned Gorge Large-Scale or Small-Scale Agriculture, subject to compliance with Sections 40.240.800 through 40.240.900, consistent with Section 40.240.460:

- A. Utility facilities and railroads necessary for public service upon a showing that:
 1. There is no practicable alternative location with less adverse effect on agricultural or forest lands; and
 2. The size is the minimum necessary to provide the service.
- B. Home occupations in existing residential or accessory structures, pursuant to Section 40.240.240.
- C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
- D. Wineries, in conjunction with on-site viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.
- E. Wine tasting rooms, in conjunction with an on-site winery.
- F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- G. Exploration of mineral and geothermal resources pursuant to Section 40.240.800.
- H. Development and production of mineral and geothermal resources, as defined by Section 40.240.040, and pursuant to Section 40.240.800 and all other applicable Federal, State and county standards, including those of Section 40.250.020. Type IV review procedures specified under Section 40.510.040 shall be required.

- I. Personal-use airstrips including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted, except for aircraft emergencies, to use by the owner and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airstrip other than those owned or controlled by the owner of the airstrip.
- J. Agriculture.
- K. Recreation development, pursuant to Section 40.240.890.
- L. Boarding of horses.
- M. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.
- N. Bed and breakfast inns in single-family dwellings, pursuant to Section 40.240.250 and provided that the residence:
1. Is included in the National Register of Historic Places; or
 2. Is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation.
- O. Non-profit, environmental learning or research facilities.
- P. Expansion of existing schools or places of worship.
- Q. On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to Section 40.240.260.
- R. Disposal sites managed and operated by the Washington State Department of Transportation, for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, pursuant to Section 40.240.280.
- S. Special uses in historic buildings, pursuant to Section 40.240.310.

40.240.450 ~~40.240.250~~ APPROVAL CRITERIA FOR LIFE ESTATES - GORGE LARGE-SCALE OR SMALL-SCALE AGRICULTURE ZONES

A landowner who sells or otherwise transfers real property on lands zoned Gorge Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in Section 40.240.040. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with Sections 40.240.800 through 40.240.900 and upon findings that:

- A. The proposed dwelling is in conjunction with agricultural use, using guidelines from Section 40.240.430(A)(8).
- B. Upon termination of the life estate, the original or second dwelling shall be removed.

40.240.460 ~~40.240.260~~ APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED GORGE LARGE-SCALE OR SMALL-SCALE AGRICULTURE

Uses identified in Section 40.240.440 may be allowed only if they meet both of the following criteria:

- 1 A. The use is compatible with agricultural uses and would not force a change in or significantly increase
2 the cost of accepted agricultural practices on nearby lands devoted to agricultural use; and
3
4 B. The use will be sited to minimize the loss of land suitable for the production of crops or livestock.
5
6

7 **40.240.470 ~~40.240.270~~ DIMENSIONAL STANDARDS**
8

9 The following dimensional standard provisions shall apply to lands zoned Gorge Large or Small-Scale
10 Agriculture, or Gorge SMA Agriculture unless otherwise noted herein. In the event of conflict between
11 other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

- 12 A. All new land divisions shall comply with Section 40.240.370 and all applicable county regulations.
13 Newly created lots shall comply with the following minimum lot size requirements:
14 1. Gorge Large-Scale Agriculture 80 (GLSA-80), 80 acres.
15 2. Gorge Large-Scale Agriculture 40 (GLSA-40), 40 acres.
16 3. Gorge Small-Scale Agriculture (GSA), 20 acres.
17 4. Gorge SMA Agriculture (GSA) 40 acres for a new residence. New land division shall be permitted
18 in the SMA only when the creation of new parcels facilitates Federal acquisition of lands to
19 achieve the policies of the overall Management Plan.
20
21 B. Minimum lot width of six-hundred sixty (660) feet for newly created lots.
22
23 C. No minimum lot depth requirement.
24
25 D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road
26 easement.
27
28 E. Minimum side setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet
29 for non residential buildings.
30
31 F. Minimum street side setback of twenty-five (25) feet for all buildings.
32
33 G. Minimum rear setback of two hundred (200) feet for all residential buildings, and twenty-five (25) feet
34 for non residential buildings.
35
36 H. Setbacks shall ~~also~~ comply with provisions of Sections 40.240.130 and 40.240.150.
37
38 I. Maximum height restriction of thirty-five (35) feet for residential structures, unless superceded by
39 Scenic Review Criteria of Section 40.240.800 or Section 40.240.810.
40
41 J. Where larger setbacks are not required by Section 40.240.130, parcels which are non-conforming as
42 to minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet
43 from all property lines except side setbacks adjacent to streets, which may observe building setbacks
44 of twenty-five (25) feet.
45
46

47 **40.240.480 ~~40.240.280~~ FOREST LAND DESIGNATIONS**
48

49 Sections 40.240.140 and 40.240.480 through 40.240.570 shall apply to those areas zoned Gorge Small
50 Woodland and SMA-Forest.
51
52

53 **40.240.490 ~~40.240.290~~ USES ALLOWED OUTRIGHT - FOREST LAND**
54

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

40.240.500 USES ALLOWED THROUGH THE EXPEDITED DEVELOPMENT REVIEW PROCESS - FOREST LAND

The uses listed in Section 40.240.060 are allowed with review through the expedited development review processes on lands designated Commercial Forest Land, Large Woodland, Small Woodland, or SMA Forest.

40.240.510 ~~40.240.300~~ REVIEW USES - FOREST LAND

- A. The following uses may be allowed on lands zoned Gorge Small Woodland subject to compliance with Sections 40.240.800 through 40.240.900:
1. On lands designated Gorge Small Woodland, one single-family dwelling on a legally created parcel upon the parcels enrollment in the state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one (1) single-family dwelling. In either case, the location of a dwelling shall comply with Sections 40.240.140 and 40.240.540. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated gorge Small Woodland, or Gorge Large-Scale or Small-Scale Agriculture.
 2. One (1) single-family dwelling if shown to be in conjunction with and substantially contribute to the current agricultural use of a farm pursuant to Section 40.240.430(A)(9). The siting of the dwelling shall comply with Section 40.240.540.
 3. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on-site, temporary in nature, and not designed to remain for the forests entire growth cycle from planting to harvesting. An auxiliary use is removed when the particular forest practice for which it was approved has concluded.
 4. Temporary portable facilities for the primary processing of forest products grown on a parcel or contiguous parcels in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.
 5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, pursuant to Section 40.240.270. These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
 6. Structures associated with hunting and fishing operations.
 7. Towers and fire stations for forest fire protection.
 8. Agricultural structures, except buildings, in conjunction with an agricultural use, pursuant to Section 40.240.540.
 9. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one (1) year and complete within five (5) years, pursuant to Sections 40.240.200 and 40.240.540.
 10. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsections (11) or (12) below.
 11. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are pursuant to Sections 40.240.540 and 40.240.550, and the following additional standards:
 - a. The combined footprints of all accessory buildings on a single parcel shall not exceed fifteen hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings

- 1 on a parcel, including buildings allowed without review, existing buildings and proposed
2 buildings.
- 3 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 4 12. Accessory buildings(s) larger than two hundred (200) square feet in area or taller than ten (10) feet
5 in height for a dwelling on any legal parcel larger than ten (10) acres in size are pursuant to
6 Sections 40.240.540 and 40.240.550 and the following additional standards:
- 7 a. The combined footprints of all accessory buildings on a single parcel shall not exceed twenty-
8 five hundred (2,500) square feet in area. This combined size limit refers to all accessory
9 buildings on a parcel, including buildings allowed without review, existing buildings and
10 proposed buildings.
- 11 b. The footprint of any individual accessory building shall not exceed fifteen hundred (1,500)
12 square feet.
- 13 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 14 13. The temporary use of a mobile home in the case of a family hardship, pursuant to Sections
15 40.240.210, 40.240. 540, and 40.240.550. 40.240.190(C) and (D), and Section 40.240.330.
16 Accessory buildings greater than 60 square feet and/or exceeding 18 feet in height as measured
17 at the roof peak, subject to Sections 40.240.190(C) and 40.240.330.
- 18 14. A second single-family dwelling for a farm operator's relative, pursuant to Sections 40.240.140,
19 40.240.430(A)(9) and 40.240.540.
- 20 15. Private roads serving a residence, pursuant to Sections 40.240.140 and 40.240.540.
- 21 16. Recreation development, pursuant to Section 40.240.890 and the Recreation Development Plan
22 (Management Plan, Part III, Chapter 1).
- 23 17. Construction or reconstruction of roads or modifications not in conjunction with forest use or
24 practices.
- 25 18. Agricultural labor housing upon a showing that:
- 26 a. The proposed housing is necessary and accessory to a current agricultural use.
- 27 b. The housing shall be seasonal unless it is shown that an additional full-time dwelling is
28 necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not
29 exceed nine months.
- 30 c. The housing shall be located to minimize the conversion of lands capable of production of farm
31 crops and livestock and will not force a significant change in or significantly increase the cost
32 of accepted agricultural practices employed on nearby lands devoted to agricultural use.
- 33 19. On parcels in Small Woodland, a land division creating parcels smaller than the designated
34 minimum parcel size, pursuant to Section 40.240.370. If the designated minimum parcel size is
35 twenty (20) acres, this provision will apply to parcels forty (40) acres in size or larger. Similarly, if
36 the designated minimum parcel size is forty (40) or eighty (80) acres, this provision will apply to
37 parcels eighty (80) acres or larger or one-hundred sixty (160) acres or larger, respectively.
- 38 20. New cultivation, subject to compliance with Sections 40.240.820, and 40.240.840 through
39 40.240.870.
- 40 21. Life Estates on lands Gorge Small Woodland, pursuant to Section 40.240.560.
- 41 22. Land divisions, pursuant to Section 40.240.370(B)(1).
- 42 23. Placement of structures necessary for continued public safety and the protection of private
43 property and essential public services damaged during an emergency/disaster event. This
44 includes the replacement of temporary structures erected during such events with permanent
45 structures performing an identical or related function. Land use proposals shall be submitted within
46 twelve (12) months following an emergency/disaster event.
- 47 24. Lot line adjustments that would result in the potential to create additional parcels through
48 subsequent land divisions, pursuant to Section 40.240.380.
- 49 25. Additions to existing buildings greater than two hundred (200) square feet in area or greater than
50 the height of the existing building.
- 51 a. Docks and boathouses, pursuant to Section 40.240.230.
- 52 b. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic
53 tanks and fuel tanks.
- 54 c. Commercial events on lands designated Large Woodland or Small Woodland, pursuant to
55 Section 40.240.290.

- 1
2 B. The following uses may be allowed on lands zoned Gorge SMA Forest pursuant to Sections
3 40.240.800 ~~840~~ through 40.240.900. The use or development will be sited to minimize the loss of
4 land suitable for the production of forest products:
- 5 1. Any use listed in Section 40.240.430(B). ~~40.240.230(B)~~
 - 6 2. New Cultivation or new agricultural use outside of previously disturbed and regularly worked
7 fields or areas. Clearing trees for new agricultural use is subject to the additional
8 requirements of subsection (24) below.
 - 9 3. Railroad and road construction or reconstruction.
 - 10 4. Exploration, development, and production of sand, gravel, or crushed rock, as defined in Section
11 40.240.040, for the construction, maintenance, or reconstruction of roads used to manage or
12 harvest commercial forest products in the SMA, Special Management Area, pursuant to Sections
13 40.240.800 and 40.250.020, and all other applicable Federal, State and county standards.
 - 14 5. Silvicultural nurseries.
 - 15 6. Utility facilities for public service upon a finding that:
16 a. There is no alternative location with less adverse effect on Forest Land, and
17 b. The size is the minimum necessary to provide the service.
 - 18 7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or
19 natural resources, pursuant to Section 40.240.270. These projects may include new structures
20 (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused
21 roads, recontouring abandoned quarries).
 - 22 8. Fish hatcheries and agricultural facilities.
 - 23 9. Public recreation, commercial recreation, interpretive and educational developments and uses
24 consistent with Section 40.240.810.
 - 25 10. One (1) single family dwelling on a parcel of forty (40) contiguous acres or larger if an approved
26 Forest Management Plan demonstrates that such dwelling is necessary for and accessory to
27 forest uses. The Forest Management Plan shall demonstrate the following:
28 a. The dwelling will contribute substantially to the growing, propagation, and harvesting of
29 trees. The principal purpose for allowing a dwelling on forest lands is to enable the
30 resident to conduct efficient and effective management. This requirement shall indicate a
31 relationship between ongoing forest management and the need for dwelling on the
32 subject property.
33 b. The subject parcel has been enrolled in the states forest assessment program.
34 c. A plan for management of the parcel has been approved by the Washington Department
35 of Natural Resources and the responsible official. The plan must indicate the condition
36 and productivity of lands to be managed; the operations the owner will carry out (thinning,
37 harvest, planting, etc.); a chronological description of when the operations will occur,
38 estimates of yield, labor, and expenses; and how the dwelling will contribute towards the
39 successful management of the property.
40 d. There are no other dwellings on the parcel that are vacant or currently occupied by
41 persons not engaged in forest management of the subject parcel.
42 e. The dwelling complies with all applicable building code and fire protection guidelines.
43 f. A declaration has been signed by the landowner and recorded into county deeds and
44 records specifying that the owners, successors, heirs, and assigns of the subject property
45 are aware that adjacent and nearby operations are entitled to carry on accepted
46 agricultural or forest practices.
 - 47 11. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright,
48 eligible for the expedited development review process, or allowed in subsections (12) or (13),
49 below.
 - 50 12. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet
51 in height for a dwelling on any legal parcel less than or equal to ten (10) acres in size are subject
52 to the following additional standards.
53 a. The combined footprints of all accessory buildings on a single parcel shall not exceed
54 fifteen hundred (1,500) square feet in area. This combined size limit refers to all accessory
55 buildings on a parcel, including buildings allowed without review, existing buildings and

- 1 proposed buildings.
- 2 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 3 13. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet
- 4 in height for a dwelling on any legal parcel larger than ten (10) acres in size are subject to the
- 5 following additional standards:
- 6 a. The combined footprints of all accessory buildings on a single parcel shall not exceed
- 7 twenty-five hundred (2,500) square feet in area. This combined size limit refers to all
- 8 accessory buildings on a parcel. Including buildings allowed without review, existing
- 9 buildings and proposed buildings.
- 10 b. The footprint of any individual accessory building shall not exceed fifteen hundred (1,500)
- 11 square feet.
- 12 c. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- 13 14. Home occupations, pursuant to Section 40.240.240.
- 14 15. Temporary portable facility for the processing of forest products.
- 15 16. Towers and fire stations for forest fire protection.
- 16 17. Community facilities and nonprofit facilities related to forest resource management.
- 17 18. Expansion of existing nonprofit group camps, retreats, or conference or education centers,
- 18 necessary for the successful operation of the facility on the dedicated site. Expansion beyond
- 19 the dedicated site shall be prohibited.
- 20 19. On a parcel of forty (40) acres or greater with an existing dwelling, the temporary use of a mobile
- 21 home in the case of a family hardship pursuant to Section 40.240.210.
- 22 20. Additions to existing buildings greater than two hundred (200) square feet in area or greater than
- 23 the height of the existing building.
- 24 21. Docks and boathouses, pursuant to Section 40.240.230.
- 25 22. Demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel
- 26 tanks.
- 27 23. Disposal sites managed and operated by the Washington State Department of Transportation,
- 28 or a Gorge county public works department for earth materials and any intermixed vegetation
- 29 generated by routine or emergency/disaster public road maintenance activities within the Scenic
- 30 Area, subject to compliance with Section 40.240.280.
- 31 24. Clearing trees for new agricultural use with the following steps and subject to the following
- 32 additional guidelines:
- 33 a. A stewardship Plan pursuant to Section 40.420.510(B)(25)(c) shall be submitted and
- 34 deemed complete by the responsible official and submitted to the Forest Service for review.
- 35 b. Clearing trees fro new agricultural use shall be limited to fifteen (15) acres.
- 36 c. If the Stewardship Plan proves that the above guideline is detrimental to the proposed
- 37 agricultural use, the final size of the clearing shall be determined by the application of
- 38 subsection 24(d) below and pursuant to subsection 24(i) below.
- 39 d. After a thirty- (30-) day public comment period, the Forest Service shall review the
- 40 Stewardship Plan using the following criteria:
- 41 (1) Scenic Resource guidelines in Sections 40.240.510(B)(25)(d)(1)and (5).
- 42 (2) Applicable guidelines of Sections 40.240.800 through 40.240.900.
- 43 (3) The Natural Resource Conservation Service (NRCS) soil unit description shall
- 44 indicate that soils are suitable for the proposed agricultural use. The woodland
- 45 management tables shall be used as part of the analysis of suitability for both
- 46 agricultural and forest uses.
- 47 (4) The size, shape and pattern on the landscape of the clearing for the new agricultural
- 48 use shall blend with the surrounding landscape pattern either because the existing
- 49 pattern includes agricultural openings or because the new agricultural opening is
- 50 designed to appear natural.
- 51 e. The Forest Service shall send the review statement to the responsible official. The Forest
- 52 Service shall state whether or not the new agricultural use should proceed including any
- 53 conditions that are recommended to be required by the responsible official.
- 54 f. The responsible official will accept an application for new agricultural use on forested lands
- 55 after receipt of a positive review statement from the Forest Service.

- 1 g. The forest practice portion of the new agricultural use shall not be approved by the state
2 forestry department or responsible official until a decision on the new agricultural use is
3 issued by the responsible official.
- 4 h. The new agricultural use shall be operational within two (2) years of the time frame
5 described in the approved Stewardship Plan.
- 6 i. New agricultural uses with an approved Stewardship Plan requiring more than fifteen (15)
7 acres shall attain the final approved size sequentially. After the first fifteen (15) cleared
8 acres are operational, each subsequent clearing shall not occur until the previous clearing is
9 operational.
- 10 25. Forest practices in accordance with an approved forest practices application (see Section
11 40.240.050), and pursuant to Section 40.240.570.
- 12 a. The following information, in addition to general site plan requirements Section 40.240.050
13 shall be required:
- 14 (1) Delineate the following on a recent aerial photo or detailed map:
- 15 (a) The size, shape, and exact location of the proposed treatment area including any
16 clumps of leave trees to remain. If more than one silvicultural prescription is to be
17 used, code each on the photo;
- 18 (b) Other important natural features of the subject parcel such as steep areas,
19 streams, wetlands, rock outcrops, etc.;
- 20 (c) Road and structure construction and/or reconstruction location;
- 21 (d) Location of proposed rock or aggregate sources;
- 22 (e) Major skid trails, landings, and yarding corridors;
- 23 (f) Commercial firewood cutting areas; and
- 24 (g) Protection measures for scenic, cultural, natural, and recreation resources, such
25 as road closures.
- 26 (2) A description of the existing forest in terms of species, ages, sizes, landscape pattern
27 (including how it fits into the surrounding landscape pattern) and canopy closure for all
28 canopy layers.
- 29 (3) A description of how the forest practice will fit into the existing landscape pattern and
30 how it will meet scenic and natural resource standards in Sections 40.240.510(B)(25)(d)
31 and (e).
- 32 (4) Written silvicultural prescriptions with projected post-treatment forest condition specified
33 in terms of species, ages, sizes, landscape pattern (including how it fits into the
34 surrounding landscape pattern) and canopy closure for all canopy layers.
- 35 (5) Road and structure construction and/or reconstruction design.
- 36 (6) Existing and proposed rock pit development plans.
- 37 (7) A discussion of slash disposal methods.
- 38 (8) A reforestation plan as reviewed by the appropriate state forest practices agency.
- 39 b. As part of the application, flag, stake or mark buffers, any tress or downed wood to be
40 retained or removed (whichever makes the most sense), and areas for placing fill or
41 removing material in preparation for a field visit by the reviewer.
- 42 c. Stewardship Plan Requirements: The following information, in addition to the applicable
43 portions of the forest practice application requirements above and general site plan
44 requirements shall be provided:
- 45 (1) An outline of the long term goals, proposed operations, and future sustainability of the
46 subject parcel.
- 47 (2) A description of the time frame and steps planned to reach the long term goals.
- 48 (3) For Forest Practices, describe how the proposed activities fit into the long term goals
49 and sustainability of the parcel and/or forest health. The following shall be addressed:
- 50 (a) The range of natural conditions expected in the forest in terms of tree
51 species, structure, and landscape pattern;
- 52 (b) What the resulting tree species, structure, and landscape pattern will be after
53 the proposed activities;
- 54 (c) A clear explanation of how a deviation from the applicable guidelines may better
55 achieve forest health objectives; and

- 1 (d) A clear explanation how and why the proposed activities will lead the forest
2 towards its range of natural viability and result in reaching sustainability, resiliency to
3 disturbances.
- 4 (4) For clearing trees for new agricultural use, the following shall be addressed in addition
5 to Sections 40.240.510(B)(25)(c)(1) and (2) above:
- 6 (a) How each NRCS soil unit will be affected by the proposed clearing or treatment;
7 (b) A clear explanation, based on the needs of the operation, as to the exact size of
8 the clearing needed and how it will meet the natural and scenic requirements set forth
9 in Sections 40.240.570(B)(4)(d)(1) through (4);
10 (c) Describe in sufficient detail for evaluation the proposed agricultural use, the
11 improvements needed on the parcel, time line for its establishment, and its
12 marketability; and
13 (d) Evidence that an agricultural specialist, such as the county extension agent,
14 has examined and found the proposed agricultural use reasonable and viable.
- 15 d. For forest practices, the following scenic resource guidelines shall apply:
- 16 (1) Forest practices shall meet the design guidelines and scenic standards for the applicable
17 landscape setting and zone.
- 18 (2) In the western portion (to White Salmon River) of the SMA Coniferous Woodland
19 Landscape Setting, no more than eight percent (8%) of the composite key viewing area
20 view shed from which the forest practice is topographically visible shall be in created
21 forest openings at one time. The view shed boundaries shall be delineated by the Forest
22 Service. The Forest Service will assist (as available) in calculating and delineating the
23 percentage of the composite key viewing area view shed that is in crated forest openings
24 at one time.
- 25 (3) For all other landscape settings, created forest openings visible at one time shall be
26 within the desired range for the vegetation type as set forth in Natural Resources
27 guidelines in Sections 40.240.510(B)(25)(e)(1) through (4).
- 28 (4) Size, shape, and dispersal of created forest openings shall maintain the desired natural
29 patterns in the landscape as set forth in Natural Resources guidelines in Sections
30 40.240.510(B)(25)(e)(1) through (3).
- 31 (5) The maximum size of any created forest opening is set forth by the "Desired" vegetation
32 type in the Forest Structure and Pattern Table.
- 33 (a) If the treatment is proposed to go beyond the above guideline based on forest health
34 or ecosystem function requirements, a Stewardship Plan shall be required.
- 35 (b) If the Stewardship Plan proves that the above guideline is detrimental to either forest
36 health or ecosystem function, the size of the created forest opening shall be within the
37 natural range for the vegetation type as listed in the Desired Forest Structure and
38 Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall
39 maintain scenic standards.
- 40 (6) Created forest openings shall not create a break or opening in the vegetation in the
41 skyline as viewed from a key viewing area.
- 42 e. Forest practices shall maintain the following in addition to applicable natural resources
43 guidelines in Section 40.240.800:
- 44 (1) Silvicultural prescriptions shall maintain the desired natural forest stand structures (trees
45 species, spacing, layering, and mixture of sizes) based on forest health and ecosystem
46 function requirements. Forest tree stand structure shall meet the requirements listed in
47 the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree
48 stand structure is defined as the general structure of the forest in each vegetation type
49 within which is found forest openings.
- 50 (2) Created forest openings shall be designed as mosaics not to exceed the limits defined as
51 Desired in the Desired Forest Structure and Pattern Table unless proposed as a
52 deviation as allowed under the scenic resource guideline in Section 40.240.510(B)(12).
- 53 (3) Snag and down wood requirements shall be maintained or created as listed in the
54 Desired Forest Structure and Pattern Table for each vegetation type.

(4) If the treatment is proposed to deviate from the snag and down wood requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

26. Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes the replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals shall be submitted within twelve (12) months following an emergency/disaster event.

40.240.520 ~~40.240.310~~ REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA FOR GORGE SMALL WOODLAND DESIGNATIONS

The following uses may be allowed on lands designated Gorge Small Woodland, subject to compliance with Sections 40.240.800 through 40.240.900, and consistent with Section 40.240.530:

- A. Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources, and (2) the size is the minimum necessary to provide the service.
- B. Home occupations in an existing residence or accessory structure, pursuant to Section 40.240.240.
- C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.
- D. Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.
- E. Wine tasting rooms, in conjunction with an on-site winery.
- F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.
- G. Exploration of mineral and geothermal resources, pursuant to Sections 40.240.800 through 40.240.900.
- H. Development, and production of mineral and geothermal resources, as defined by Section 40.240.040, pursuant to Section 40.240.800 and all other applicable Federal, State and county standards, including those of Section 40.250.020. Type III review procedures specified under Section 40.510.030 shall be required.
- I. Aquaculture.
- J. Boarding of horses.
- K. Temporary portable asphalt/batch plants related to public road projects, not to exceed six (6) months.
- L. Expansion of existing nonprofit group camps, retreats, or conference centers.
- M. Bed and breakfast inns in single-family dwellings, pursuant to Section 40.240.250 and provided that the residence:
 - 1. Is included in the National Register of Historic Places, or
 - 2. Is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation.

1
2 N. Nonprofit, environmental learning or research facilities.
3

4 O. On parcels designated small woodland, small-scale fishing support and fish processing operations on
5 parcels that are contiguous with and have direct access to the Columbia River, pursuant to Section
6 40.240.260.
7

8 P. Disposal sites managed and operated by the Washington State Department of Transportation, or a
9 Gorge County public works department for earth materials and any intermixed vegetation generated
10 by routine or emergency/disaster public road maintenance activities within the Scenic Area, pursuant
11 to Section 40.240.280.
12

13 Q. Special uses in historic buildings, pursuant to Section 40.240.310.
14
15

16 **40.240.530 40.240.320 APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED**
17 **GORGE SMALL WOODLAND**
18

19 Uses identified in Section 40.240.520 may be allowed only if they meet the following criteria:
20

21 A. The owners of land designated Gorge Small Woodland, or Gorge Large-Scale or Small-Scale
22 Agriculture that lies within five hundred (500) feet of the perimeter of the subject parcel have been
23 notified of the land use application and have been given at least ten (10) days to comment prior to a
24 final decision;
25

26 B. The use will not interfere seriously with accepted forest or agricultural practices on nearby lands
27 devoted to resource use;
28

29 C. The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the
30 chance of interference with accepted forest or agricultural practices on nearby lands; and
31

32 D. The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression
33 personnel and will comply with Section 40.240.540.
34
35

36 **40.240.540 40.240.330 APPROVAL CRITERIA FOR FIRE PROTECTION IN FOREST**
37 **DESIGNATIONS (GMA)**
38

39 All uses, as specified, shall comply with the following fire safety guidelines within the GMA:
40

41 A. All buildings shall be surrounded by a maintained fuel break of at least fifty (50) feet. Hazardous fuels
42 shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted
43 within the fuel break. This could include green lawns and low shrubs (less than twenty-four (24)
44 inches in height). Trees should be spaced greater than fifteen (15) feet between the crowns and
45 pruned to remove dead and low (less than eight (8) feet) branches. Accumulated leaves, needles,
46 and other dead vegetation shall be removed from beneath trees.
47

48 B. Buildings with plumbed water systems shall install at least one standpipe a minimum of fifty (50) feet
49 from the structure(s).
50

51 C. A pond, stream, tank or sump with storage of not less than one thousand (1,000) gallons, or a well or
52 water system capable of delivering twenty (20) gallons per minute shall be provided. If a well pump is
53 located on-site, the electrical service shall be separate from the dwelling.
54

- 1 D. Access drives shall be constructed to a minimum of twelve (12) feet in width and not exceed a grade
2 of twelve percent (12%). Turnouts shall be provided at a minimum of every five hundred (500) feet.
3 Access drives shall be maintained to a level that is passable to fire equipment. Variances to road
4 guidelines may be made only after consultation with the Director of Public Works, local rural fire
5 district, and the Washington Department of Natural Resources.
- 6
- 7 E. Within one (1) year of the occupancy of a dwelling, the responsible official shall conduct a review of
8 the development to assure compliance with these guidelines.
- 9
- 10 F. Telephone and power supply systems shall be underground whenever possible.
- 11 G. Roofs of structures should be constructed of fire-resistant materials such as fiberglass shingle or tile.
12 Roof materials such as cedar shake and shingle should not be used.
- 13
- 14 H. Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened
15 with no coarser than quarter-inch mesh metal screen that is noncombustible and corrosion resistant
16 and should be equipped with a spark arrestor.
- 17
- 18 I. All structural projections such as balconies, decks and roof gables should be built with fire resistant
19 materials equivalent to that specified in the International Uniform Building Code.
- 20
- 21 J. Attic openings, soft vents, foundation louvers or other ventilation openings on dwellings and
22 accessory structures should be screened with no coarser than quarter-inch mesh metal screen that is
23 noncombustible and corrosion resistant.
- 24
- 25 K. Proposed uses shall comply with all applicable provisions of CCC Title 15 Fire Prevention, including
26 Chapter 15.13 and Chapter 14.054. Section 40.240.540 requirements shall prevail in the event of
27 conflict with these county codes.
- 28
- 29

30 **40.240.550 APPROVAL CRITERIA FOR SITING OF DWELLINGS ON FOREST LAND**

31
32 The approval of new dwellings and accessory structures on or immediately adjacent to lands within a
33 Forest zone in the GMA shall comply with the following guidelines:

- 34
- 35 A. The dwelling and structures shall be sited on the parcel so that they will have the least impact on
36 nearby or adjoining forest operations. Dwellings shall be set back at least two hundred (200) feet
37 from adjacent parcels within the Forest zone. The responsible official may grant a variance to this
38 setback under the provisions of Section 40.240.150.
- 39
- 40 B. The amount of forest land used to site dwellings, structures, access roads, and service corridors
41 shall be minimized. This can include locating new dwellings and structures as close to existing
42 public roads as possible, thereby minimizing the length of access roads and utility corridors; or
43 locating the dwelling, access road, and service corridors on portions of the parcel that are least or
44 poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest
45 uses, adjacent dwellings, or land productivity.
- 46
- 47 C. Dwellings shall be located to minimize the risks associated with fire. Dwellings should be located
48 on gentle slopes and in any case not on slopes which exceed forty percent (40%). Narrow
49 canyons and draws should be avoided. Dwellings should be located to minimize the difficulty in
50 gaining access to the structure in the case of fire. Dwellings should be located to make the access
51 roads as short and flat as possible.
- 52
- 53 D. Grouping proposed development closer to existing development on adjacent lands may be used to
54 minimize impacts on nearby or adjacent forest operations.
- 55

40.240.560 ~~40.240.340~~ **APPROVAL CRITERIA FOR LIFE ESTATES IN GORGE SMALL WOODLAND**

A landowner who sells or otherwise transfers real property on lands zoned Gorge Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel. A second dwelling unit on lands designated Gorge Small Woodland may be allowed, pursuant to Sections 40.240.800 through 40.240.900 and upon findings that:

- A. The proposed dwelling is in conjunction with agricultural use pursuant to Section 40.240.430(A)(9).
- B. On lands designated Gorge Small Woodland, the proposed dwelling complies with Section 40.240.510(A)(1).
- C. Upon termination of the life estate, the original or second dwelling shall be removed.

40.240.570 ~~40.240.350~~ **DIMENSIONAL STANDARDS—FOREST LAND**

The following dimensional standard provisions shall apply to lands designated Gorge Small Woodland, Gorge SMA ~~Federal Forest or non-Federal Forest~~ unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

- A. All new land divisions shall comply with Section 40.240.370 and applicable county regulations. Newly created lots shall comply with the following minimum lot size requirements:
 - 1. Gorge Small Woodland 40 (GSW-40), 40 acres.
 - 2. Gorge Small Woodland 20 (GSW-20), 20 acres.
 - 3. Gorge SMA Forest (~~GSF~~, ~~Federal (GSFF)~~), 40 acres for a new residence. New land division shall be permitted in the SMA only when the creation of new parcels facilitates Federal acquisition of lands to achieve the policies of the overall Management Plan.
- B. Minimum lot width of six-hundred sixty (660) feet for newly created lots.
- C. No minimum lot depth requirement.
- D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road easement.
- E. Minimum side setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for non-residential buildings.
- F. Minimum street side setback of twenty-five (25) feet for all buildings.
- G. Minimum rear setback of two hundred (200) feet for all residential buildings, twenty-five (25) feet for non residential buildings.
- H. Setbacks shall also comply with Sections 40.240.130.
- I. Medium height restriction of thirty-five (35) feet for residential structures, unless superceded by Scenic Review Criteria of Section 40.240.800 or Section 40.240.810.

40.240.580 ~~40.240.360~~ **OPEN SPACE DESIGNATIONS**

Sections 40.240.580 through 40.240.610 shall apply to those areas zoned Gorge Open Space and Gorge SMA-Open Space on the Scenic Area Land Use Designation Map.

40.240.590 ~~40.240.370~~ USES ALLOWED OUTRIGHT - OPEN SPACE

The uses listed in Section 40.240.120(B) are allowed without review on lands designated open space.

**40.240.600 USES ALLOWED THROUGH THE EXPEDITED DEVELOPMENT REVIEW PROCESS
- OPEN SPACE**

The uses in Section 40.240.060 may be allowed with review through the expedited development review process on lands designated Open Space.

40.240.610 ~~40.240.380~~ REVIEW USES - OPEN SPACE

- A. The following uses may be allowed on all lands zoned Gorge GMA Open Space subject to compliance with Sections 40.240.800 through 40.240.900:
1. Low intensity recreation, pursuant to Section 40.240.900(B).
 2. Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources. Such land divisions shall be pursuant to Section 40.240.370. There shall be no minimum size requirement for newly created lots.
 3. Repair, maintenance, operation and improvement of existing structures, trails, roads, railroads, utility facilities and hydroelectric facilities.
 4. Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.
 5. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources pursuant to Section 40.240.270. These projects may include new structures (e.g. fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).
 6. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.
 7. Lot Line adjustments pursuant to Section 40.240.380.
- B. The following uses may be allowed on lands designated Gorge GMA Open Space – State Parks Recreation Areas within publicly-owned lands:
1. All uses listed in Section 40.240.610(A);
 2. Fish and wildlife management uses conducted by federal, state or tribal resource agencies;
 3. Soil, water or vegetation uses performed in accordance with a conservation plan approved by a local conservation district;
 4. Harvesting of wild crops, with written approval of from the public agency owning or operating the land; and
 5. Educational or scientific research.
- C. The following uses may be allowed on lands zoned Gorge SMA-Open Space, subject to compliance with Sections 40.240.800 through 40.240.900, and when consistent with an open space plan approved by the Forest Service pursuant to subsection (E) below:
1. Changes in existing uses including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.
 2. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, pursuant to Section 40.240.270. These projects may include vegetation management and forest practices (pursuant to Section 40.240.510(B)(25)) for the restoration of

- 1 forest health, new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing
2 and revegetating unused roads, recontouring abandoned quarries).
- 3 3. Low intensity recreation and uses and developments, including educational and interpretive
4 facilities, consistent with Section 40.240.900.
- 5 4. Utility facilities for public service upon a showing that:
6 a. There is no alternative location with less adverse effect on Open Space land, and
7 b. The size is the minimum necessary to provide the service.
- 8 5. Demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel
9 tanks.
- 10 ~~C. On land zoned Gorge SMA Open Space, the maintenance, repair, and operation of existing~~
11 ~~dwellings, structures, trails, roads, railroads, and utility facilities may occur without review.~~
- 12 D. An SMA Open Space plan shall be completed by the primary managing agency or landowner prior to
13 any new land uses or development, and shall be reviewed by the Forest Service. The Open Space
14 plan shall include the following:
15 1. Direction for resource protection, enhancement, and management;
16 2. Review of existing uses to determine compatibility with Open Space values; and
17 3. Consultation with members of the public and with agency and resource specialists.
- 18
- 19 E. Subject to review, treatment of noxious weeds shall be permitted without completion of an SMA
20 Open Space Plan; provided, that the following criteria are met:
21 1. The infestation of noxious weeds is recent and eradication is possible; and
22 2. Delaying or deferring treatment could cause widespread or significant adverse impacts to one or
23 more of the following resources:
24 a. Displacement of native and traditionally gathered plants; or
25 b. Degradation of wildlife habitat and forage; or
26 c. Degradation or loss of agricultural uses of land, such as cropland or livestock forage; or
27 d. Limitation of recreational uses; or
28 e. For federal lands, treatment effects have been thoroughly evaluated in an environmental
29 assessment.
- 30
- 31

32 **40.240.620 40.240.390- RESIDENTIAL LAND DESIGNATIONS**

33

34 Sections 40.240.620 through 40.240.670 shall apply to those areas designated Gorge Residential on the
35 Scenic Area Land Use Designation Map.

36

37

38 **40.240.630 40.240.400- USES ALLOWED OUTRIGHT - RESIDENTIAL LAND**

39

40 The uses listed in Section 40.240.120(A) are allowed without review on lands designated Residential.

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42

43 **40.240.640 USES ALLOWED THROUGH THE EXPEDITED DEVELOPMENT REVIEW PROCESS-**
44 **RESIDENTIAL LAND**

45

46 The uses listed in Section 40.240.060 are allowed with review through the expedited development review
47 process on lands designated Residential.

48

49

50 **40.240.650 40.240.410- REVIEW USES - RESIDENTIAL LAND**

51

52 The following uses may be allowed on lands in the GMA General Management Area zoned Gorge
53 Residential, subject to compliance with Sections 40.240.800 through 40.240.900:

54

- 55 A. One single-family dwelling per legally created parcel.

1. If the subject parcel is located adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture the use shall comply with the buffer and notification requirements of Section 40.240.130, and the notification requirements of Section 40.240.430(A)(16)(e); and
 2. If the subject parcel is located adjacent to lands zoned Gorge Small Woodland, the use shall comply with the buffer and notification requirements of Section 40.240.140, and the notification requirements of Section 40.240.530(A), and the placement of a dwelling shall also comply with Section 40.240.540.
- B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in subsection (C) below.
- C. Accessory building(s) larger than two hundred (200) square feet in area or taller than ten (10) feet in height for a dwelling on any legal parcel are subject to the following additional standards:
1. The combined footprints of all accessory buildings on a single parcel shall not exceed fifteen hundred (1,500) square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.
 2. The height of any individual accessory building shall not exceed twenty-four (24) feet.
- D. The temporary use of a mobile home in the case of a family hardship, pursuant to Section 40.240.210.
- E. Construction or reconstruction of roads.
- F. On parcels ten (10) acres or larger in the five- (5-) acre Residential designation, or twenty (20) acres or larger in the ten- (10-) acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, pursuant to Section 40.240.370(B).
- G. New cultivation, subject to compliance with Sections 40.240.820 and 40.240.840 through 40.240.870.
- H. Land divisions, pursuant to Section 40.240.370(B).
- I. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions pursuant to Section 40.240.380.
- J. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources. These projects may include new structures and/or activities, pursuant to Section 40.240.270.
- K. Agricultural structures, except buildings, in conjunction with agricultural use.
- L. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five (5) years, pursuant to standards in Section 40.240.200.
- M. Additions to existing buildings greater than two hundred (200) square feet in area or greater than the height of the existing building.
- N. Docks and boathouses, pursuant to Section 40.240.230.
- O. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic tanks and fuel tanks.
- P. Commercial events, pursuant to Section 40.240.290.

1 **40.240.660** ~~40.240.420~~ **REVIEW USES WITH ADDITIONAL APPROVAL CRITERIA – RESIDENTIAL**
2 **LAND**
3

4 The following uses may be allowed on lands in the GMA General Management Area zoned Gorge
5 Residential subject to compliance with Sections 40.240.800 through 40.240.900, and Section 40.240.670:
6

- 7 A. Accredited child care centers on land designated 5-acre Residential. A child care center may be
8 allowed in Residential zones within an existing church or community building.
9 B. Schools within an existing church or community building.
10
11 C. Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For
12 purposes of this section, existing schools means public schools that existed prior to adoption of the
13 original Management Plan on October 15, 1991.
14
15 D. Utility facilities and railroads.
16
17 E. Home occupations pursuant to Section 40.240.240.
18
19 F. Fire stations.
20
21 G. Recreation development, subject to compliance with Section 40.240.890.
22
23 H. Community parks and playgrounds, consistent with the guidelines of the National Park and
24 Recreation Society regarding the need for such facilities.
25
26 I. Bed and breakfast inns in single-family dwellings located on lands designated Residential pursuant to
27 Section 40.240.250.
28
29 J. Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes
30 grown on the subject farm or in the local region.
31
32 K. Wine sales/tasting rooms in conjunction with an on-site winery. The use shall comply with Section
33 40.240.240, with the following exceptions:
34 1. The use may employ an unlimited number of outside employees.
35 2. The wine sales/tasting room may include interior and/or exterior space, provide the combined
36 interior and exterior spaces shall not exceed one thousand (1,000) square feet.
37 3. The interior space may be located in an existing building or in a new building or addition to
38 an existing building constructed for the primary purpose of housing the wine sales/tasting room.
39 4. The exterior space may be a veranda, patio, or other similar type of structure.
40
41 L. Small-scale fishing support and fish processing operation on parcels that are contiguous with and
42 have direct access to the Columbia River, pursuant to Section 40.240.260.
43
44 M. Special uses in historic buildings, pursuant to Section 40.240.310.
45

46
47 **40.240.670** ~~40.240.430~~ **APPROVAL CRITERIA FOR SPECIFIED REVIEW USES ON LANDS ZONED**
48 **RESIDENTIAL**
49

50 The uses identified in Section 40.240.440 may be allowed only if they meet all of the following:
51

- 52 A. The proposed use will be compatible with the surrounding area. Review of compatibility shall include
53 impacts associated with the visual character of the area, traffic generation, and noise, dust and odors.
54
55 B. The proposed use will not require public services other than those existing or approved for the area.

C. If the subject parcel is located within five hundred (500) feet of lands zoned Gorge Large-Scale or Small-Scale Agriculture, Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.130.

D. If the subject parcel is located within five hundred (500) feet of lands designated Gorge Small Woodland, new buildings associated with the proposed use shall comply with Section 40.240.540.

40.240.680 ~~40.240.440~~ DIMENSIONAL STANDARDS

The following dimensional standard provisions shall apply to lands zoned Gorge Residential unless otherwise noted herein. In the event of conflict between other Title 40 chapters and this chapter, the provisions of this chapter shall prevail.

A. All new land divisions shall comply with Section 40.240.370(B) and applicable county regulations. Newly created lots shall comply with the following minimum lot size requirements:

1. Gorge Residential 5 (GR-5), 5 acres,
2. Gorge Residential 10 (GR-10), 10 acres.

B. Minimum lot width of one-hundred forty (140) feet for newly created lots, unless required otherwise by the Clark County Fire Marshal.

C. No minimum lot depth requirement.

D. Minimum front setback of fifty (50) feet for all buildings from public road right-of-way or private road easement.

E. Minimum side setback of twenty (20) feet for all residential and accessory buildings, fifty (50) feet for buildings used for agricultural purposes.

F. Minimum rear setback of twenty (20) feet for all buildings.

G. Setbacks shall also comply with provisions of Sections 40.240.130 and 40.240.150.

H. Maximum height restriction of thirty-five (35) feet for residential structures, unless superceded by Scenic Review Criteria of Section 40.240.800 or 40.240.810.

I. Where larger setbacks are not required by Section 40.240.130, parcels which are non-conforming as to minimum lot size or width and depth requirements may observe building setbacks of fifty (50) feet from all property lines except side setbacks adjacent to streets, which may observe building setbacks of twenty-five (25) feet.

40.240.690 ~~40.240.450~~ RECREATION

Sections 40.240.690 through 40.240.730 shall apply to those areas zoned Gorge Public Recreation on the Scenic Area Land Use Map.

40.240.700 ~~40.240.460~~ USES ALLOWED OUTRIGHT – PUBLIC RECREATION

The uses listed in Section 40.240.120(A) are allowed without review on lands designated Public Recreation.

1 **40.240.710 USES ALLOWED THROUGH THE EXPEDITED DEVELOPMENT REVIEW PROCESS**
2 **- PUBLIC RECREATION**
3

4 The uses listed in Section 40.240.060 are allowed with review through the expedited review process on
5 lands designated Public Recreation.
6
7
8

9 **40.240.720** ~~40.240.470~~ **REVIEW USES - PUBLIC RECREATION**

10 The following uses are allowed on all lands in the General Management Area zoned Gorge Public
11 Recreation:
12

- 13 A. The following uses may be allowed on lands in the ~~GMA General Management Area~~ zoned Gorge
14 Public Recreation, subject to compliance with Sections 40.240.890(D)(3) through (7):
15 1. Publicly-owned, resource-based recreation uses consistent with Section 40.240.890;
16 2. Commercial uses and non-resource based recreation uses that are part of an existing or
17 approved, resource-based public recreation use consistent with guidelines contained in this
18 section; and
19 3. New cultivation, subject to compliance with Sections 40.240.840 through 40.240.870.
20
21 B. The following uses may be allowed on lands in the ~~GMA General Management Area~~ zoned Gorge
22 Public Recreation, subject to compliance with Section 40.240.730:
23 1. One (1) single-family dwelling for each parcel legally created prior to adoption of the Management
24 Plan. Exceptions may be considered only upon demonstration that more than one residence is
25 necessary for management of a public park.
26 2. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright,
27 eligible for the expedited development review process, or allowed in Section 40.240.800(B)(3).
28 3. Accessory buildings larger than two hundred (200) square feet in area or taller than ten (10) feet
29 in height for a dwelling on any legal parcel are subject to the following additional standards:
30 a. The combined footprints of all accessory buildings on a single parcel shall not exceed
31 fifteen hundred (1,500) square feet in area. This combined size limit refers to all
32 accessory buildings on a parcel, including buildings allowed without review, existing
33 buildings and proposed buildings.
34 b. The height of any individual accessory building shall not exceed twenty-four (24) feet.
35 4. Agricultural structures, except buildings, in conjunction with agricultural use.
36 5. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed
37 agricultural use that a landowner would initiate within one (1) year and complete within five (5)
38 years.
39 6. Utility transmission, transportation, communication and public works facilities.
40 7. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or
41 natural resources, pursuant to Section 40.240.270.
42 8. Additions to existing buildings greater than two hundred (200) square feet in area or greater than
43 the height of the existing building.
44 9. Docks and boathouses, pursuant to Section 40.240.230.
45 10. Removal/demolition of structures that are fifty (50) or more years old, including wells, septic
46 tanks and fuel tanks.
47 11. Commercial events, pursuant to Section 40.240.290.
48
49 C. Land divisions are allowed, pursuant to compliance with Section 40.240.730(C).
50
51 D. Special uses in historic buildings, pursuant to Section 40.240.310.
52
53

54 **40.240.730** ~~40.240.480~~ **APPROVAL CRITERIA FOR NON-RECREATION USES IN GORGE PUBLIC**
55 **RECREATION ZONES**

The uses identified in Section 40.240.720(B) may be allowed only if they meet the following:

- A. The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigation measures to comply with this criterion may include onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.
- B. The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.
- C. Land divisions may be allowed consistent with Section 40.240.370(B) and upon a demonstration that the proposed land division is necessary to facilitate, enhance or otherwise improve recreational uses on the site.

RESOURCE PROTECTION GUIDELINES

40.240.800 ~~40.240.490~~ GENERAL MANAGEMENT AREA SCENIC REVIEW CRITERIA

The following scenic review guidelines shall apply to all Review Uses in the GMA. ~~General Management Area of the Columbia River Gorge National Scenic Area.~~

A. All Review Uses.

1. New buildings and roads shall be sited and designed to retain the existing topography and minimize grading activities to the maximum extent practicable.
2. New buildings shall be compatible with the general scale (height, dimensions and overall mass) ~~generally consistent with the height and size of existing nearby development.~~ Expansion of existing development shall comply with this guideline to the maximum extent practicable.
3. Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in Section 40.240.800.
4. A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than sixty (60) square feet in area and less than or equal to ten (10) feet in height, as measured at the roof peak. The site plan and application shall include all information required in Section 40.240.050. Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.
5. For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.
6. For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable. At a minimum, such reclamation plans shall include:
 - a. A map of the site, at a scale of one inch equals two hundred (200) feet (1:2,400), or a scale providing greater detail, with ten- (10-) foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil Stockpiles for eventual reclamation use; location of catch-basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing and equipment areas employed for the duration of the use.
 - b. Cross-sectional drawings of the site showing pre-mining and post-grades. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
 - c. Description of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.
 - d. Description of drainage/erosion control features to be employed for the duration of the use.

- 1 e. A landscaping plan providing for revegetation consistent with the vegetation patterns of the
2 subject landscape setting, indicating the species, number, size and location of plantings for
3 the final reclaimed grade, as well as a description of irrigation provisions or other measures
4 necessary to ensure the survival of plantings.
- 5 7. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the
6 appropriate state reclamation permitting agency for review and comment. The state agency shall
7 have thirty (30) calendar days from the date a reclamation plan is mailed to submit written
8 comments on the proposal. State agency comments shall address the following:
9 a. Whether the proposed mining is subject to state reclamation permit requirements;
10 b. If subject to state jurisdiction, whether an application has been received for a state
11 reclamation permit and, if so, the current status of the application; and
12 c. For uses subject to state jurisdiction, any issues or concerns regarding consistency with
13 state reclamation requirements, or any suggested modifications to comply with state
14 reclamation requirements.

15
16 B. Key Viewing Areas.

- 17 1. The guidelines in this section shall apply to proposed developments on sites topographically visible
18 from key viewing areas. ~~4. Size, height, shape, color, reflectivity, landscaping, siting or other~~
19 ~~aspects of proposed development shall be evaluated to ensure that such development is visually~~
20 ~~subordinate to its setting as seen from key viewing areas.~~
- 21 2. Each development shall be visually subordinate to its setting as seen from key viewing areas.
- 22 3. Determination of potential visual effects and compliance with visual subordination policies shall
23 include consideration of the cumulative effects of proposed developments.
- 24 4. The extent and type of conditions applied to a proposed development to achieve visual
25 subordination shall be proportionate to its potential visual impacts as seen from key viewing
26 areas.
- 27 a. Decisions shall include written findings addressing the factors influencing potential visual
28 impact, including but not limited to:
29 (1) The amount of area of the building site exposed to key viewing areas;
30 (2) The degree of existing vegetation providing screening;
31 (3) The distance from the building site to the key viewing areas from which it is visible;
32 (4) The number of key viewing areas from which it is visible; and
33 (5) The linear distance along the key viewing areas from which the building site is visible (for
34 linear key viewing areas, such as roads).
- 35 b. Conditions may be applied to various elements of proposed developments to ensure they are
36 visually subordinate to their setting as seen from key viewing areas, including but not limited
37 to:
38 (1) Siting (location of development on the subject property, building orientation, and other
39 elements);
40 (2) Retention of existing vegetation;
41 (3) Design (color, reflectivity, size, shape, height, architectural and design details and other
42 elements); and
43 (4) New landscaping.
- 44 5. ~~New buildings or roads~~ development shall be sited to achieve visual subordination ~~on portions of~~
45 ~~the subject property which minimize visibility~~ from key viewing areas, unless the siting would place
46 such development in a buffer specified for protection of wetlands, riparian corridors, sensitive
47 plants, sensitive wildlife sites or conflict with the protection of cultural resources. In such situations,
48 development shall comply with this guideline to the maximum extent practicable.
- 49 6. New development shall be sited using existing topography and/or existing vegetation as needed to
50 achieve visual subordination from key viewing areas. ~~In siting new buildings and roads, use of~~
51 ~~existing topography and vegetation to screen such development from key viewing areas shall be~~
52 ~~given priority over other means of achieving visual subordination, such as planting of new~~
53 ~~vegetation or use of artificial berms to screen the development from key viewing areas.~~
- 54 7. Existing tree cover screening proposed development from key viewing areas shall be retained as
55 specified in Section 40.240.800(C).

- 1 8. The silhouette of new buildings shall remain below the skyline of a bluff cliff or ridge as seen from
2 key viewing areas. Variances to this guideline may be granted if application of the guideline would
3 leave the owner without a reasonable economic use. The variance shall be the minimum necessary
4 to allow the use, and may be applied only after all reasonable efforts to modify the design, building
5 height, and site to comply with the guideline have been made.
- 6 9. An alteration to a building built prior to November 17, 1986, which already protrudes above the
7 skyline of a bluff, cliff or ridge as seen from a key viewing area, may itself protrude above the
8 skyline if:
 - 9 a. The altered building, through use of color, landscaping and/or other mitigation measures,
10 contrasts less with its setting than before the alteration; and
 - 11 b. There is no practicable alternative means of altering the building without increasing the
12 protrusion.
- 13 10. The following guidelines shall apply to new landscaping used to screen development from key
14 viewing areas:
 - 15 a. New landscaping (including new earth berms) shall be required only when application of all
16 other available guidelines in Section 40.240.800 is not sufficient to make the development
17 visually subordinate from key viewing areas. Alternate sites shall be considered prior to
18 using new landscaping to achieve visual subordination. Development shall be sited to avoid
19 the need for new landscaping wherever possible.
 - 20 b. If new landscaping is required to make a proposed development visually subordinate from
21 key viewing areas, existing on-site vegetative screening and other visibility factors shall be
22 analyzed to determine the extent of new landscaping, and the size of new trees needed to
23 achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to
24 provide sufficient screening to make the development visually subordinate within five (5)
25 years or less from the commencement of construction.
 - 26 c. Unless as specified otherwise by provisions in Section 40.240.800, landscaping shall be
27 installed as soon as practicable, and prior to project completion. Applicants and successors
28 in interest for the subject parcel are responsible for the proper maintenance and survival of
29 planted vegetation, and replacement of such vegetation that does not survive.
 - 30 d. The *Scenic Resources Implementation Handbook* shall include recommended species for
31 each landscape setting consistent with the Landscape Settings Design Guidelines in
32 Section 40.240.800(C), and minimum recommended sizes of new trees planted (based on
33 average growth rates expected for recommended species).
- 34 11. Conditions regarding new landscaping or retention of existing vegetation for new developments
35 on lands designated GMA Forest shall meet both scenic guidelines and fuel break
36 requirements in Section 40.240.540(A).
- 37 12. Unless expressly exempted by other provisions in Section 40.240.800, colors of structures on
38 sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the
39 surrounding landscape. The specific colors or list of acceptable colors shall be included as a
40 condition of approval. The *Scenic Resources Implementation Handbook* will include a
41 recommended palette of colors.
- 42 13. The exterior of buildings on lands seen from key viewing areas shall be composed of non-
43 reflective materials or materials with low reflectivity, unless the structure would be fully
44 screened from all key viewing areas by existing topographic features. The *Scenic Resources*
45 *Implementation Handbook* will include a list of recommended exterior materials. These
46 recommended materials and other materials may be deemed consistent with this guideline,
47 including those where the specific application meets recommended thresholds in the “Visibility
48 and Reflectivity Matrices” in the *Implementation Handbook*. Continuous surfaces of glass
49 unscreened from key viewing areas shall be limited to ensure visual subordination.
50 Recommended square footage limitations for such surfaces will be provided for guidance in the
51 *Implementation Handbook*.
- 52 14. ~~For all buildings, roads or mining and associated activities proposed on lands visible from key-~~
53 ~~viewing areas, the following supplemental site plan information shall be submitted in In addition~~
54 ~~to the site plan requirements in Sections 40.240.050, applications for all buildings visible from~~
55 ~~key viewing areas shall include and 40.240.800(A)(6) for mining and associated activities:~~

- 1 ~~a. For buildings, a description of the proposed building(s') height, shape, color, exterior building~~
2 ~~materials, exterior lighting, and landscaping details (type of plants used, number, size,~~
3 ~~locations of plantings, and any irrigation provisions or other measures to ensure the survival~~
4 ~~of landscaping planted for screening purposes).~~
5 ~~b. Elevation drawings shall show the appearance of proposed structures and shall include~~
6 ~~— natural grade, finished grade, and the geometrical exterior of at least the length and width of~~
7 ~~— structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.~~
8 ~~c. All applications for structural development involving more than one hundred (100) cubic~~
9 ~~— yards of grading with slopes between ten and thirty percent (10-30%) shall include a grading~~
10 ~~— plan. This plan shall be reviewed by the local government for compliance with key viewing~~
11 ~~— area policies. The grading plan shall include the following:~~
12 ~~— (1) A map of the site, prepared at a scale of one inch equals two hundred (200) feet~~
13 ~~— (1:2,400) or a scale providing greater detail, with contour intervals of at least five (5)~~
14 ~~— feet, including:~~
15 ~~— (a) natural and finished grades;~~
16 ~~— (b) location of all areas to be graded, with cut banks and fill slopes delineated; and~~
17 ~~— (c) estimated dimensions of graded areas.~~
18 ~~— (2) A narrative description (may be submitted on the grading plan site map and~~
19 ~~— accompanying drawings) of the proposed grading activity, including:~~
20 ~~— (a) its purpose;~~
21 ~~— (b) an estimate of the total volume of material to be moved;~~
22 ~~— (c) the height of all cut banks and fill slopes;~~
23 ~~— (d) provisions to be used for compactions, drainage, and stabilization of graded areas~~
24 ~~— (preparation of this information by a licensed engineer or engineering geologist is~~
25 ~~— recommended);~~
26 ~~— (e) a description of all plant materials used to revegetate exposed slopes and banks,~~
27 ~~— including the species, number, size, and location of plants, and a description of~~
28 ~~— irrigation provisions or other measures necessary to ensure the survival of~~
29 ~~— plantings; and~~
30 ~~— (f) a description of any other interim or permanent erosion control measures to be~~
31 ~~— used.~~
32 15. For proposed mining and associated activities on lands visible from key viewing areas, in
33 addition to submittal of plans and information pursuant to Section 40.240.800(A)(6) and
34 subsection (B)(4) above, project applicants shall submit perspective drawings of the proposed
35 mining areas as seen from applicable key viewing areas.
36 16. Exterior lighting shall be directed downward and sited, hooded and shielded such that it is not
37 highly visible from key viewing areas. Shielding and hooding materials shall be composed of
38 non-reflective, opaque materials.
39 17. Additions to existing buildings smaller in total square area than the existing building may be the
40 same color as the existing building. Additions larger than the existing building shall be of colors
41 specified in the design guidelines for the subject property's landscape setting.
42 18. Rehabilitation of or modifications to existing significant historic structures shall be exempted
43 from visual subordination requirements for lands seen from key viewing areas. To be eligible
44 for such exemption, the structure must be included in or eligible for inclusion in, the National
45 Register of Historic Places or be in the process of applying for a determination of significance
46 pursuant to such regulations. Rehabilitation of or modifications to structures meeting this
47 guideline shall be consistent with National Park Service regulations for such structures.
48 19. New main lines on lands visible from key viewing areas for the transmission of electricity, gas,
49 oil, other fuels, or communications, except for connections to individual users or small clusters
50 of individual users, shall be built in existing transmission corridors unless it can be
51 demonstrated that use of existing corridors is not practicable. Such new lines shall be
52 underground as a first preference unless it can be demonstrated to be impracticable.
53 20. New communication facilities (antennae, dishes, etc.) on lands visible from key viewing areas,
54 which require an open and unobstructed site, shall be built upon existing facilities unless it can
55 be demonstrated that use of existing facilities is not practicable.

21. New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:
 - a. The facility is necessary for public service;
 - b. The break in the skyline is seen only in the background; and
 - c. The break in the skyline is the minimum necessary to provide the service.
22. Overpasses, safety and directional signs and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:
 - a. The facility is necessary for public service; and
 - b. The break in the skyline is the minimum necessary to provide the service
23. Except for water-dependent development and for water-related recreation development, development shall be set back one hundred (100) feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and one hundred (100) feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to the setback may be authorized.
24. New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of thirty percent (30%). A variance may be authorized if the property would be rendered unbuildable through the application of this guideline. In determining the slope, the average percent slope of the proposed building site shall be used.
25. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.
26. All proposed structural development involving more than two hundred (200) cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the responsible official for compliance with key viewing area policies. The grading plan shall include the following:
 - a. A map of the site, prepared at a scale of one inch equals two hundred (200) feet (1:2,400), or a scale providing greater detail, with contour intervals of at least five (5) feet, including:
 - (1) existing and proposed final grades;
 - (2) location of all areas to be graded, with cut banks and fill slopes delineated; and
 - (3) estimated dimensions of graded areas.
 - b. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:
 - (1) its purpose;
 - (2) an estimate of the total volume of material to be moved;
 - (3) the height of all cut banks and fill slopes;
 - (4) provisions to be used for compaction, drainage, and stabilization of graded areas (preparation of this information by a licensed engineer or engineering geologist is recommended);
 - (5) a description of all plant materials used to revegetated exposed slopes and banks, including type of species, number of, size and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings; and
 - (6) a description of any other interim or permanent erosion control measures to be utilized.
27. Expansion of existing quarries and new production and/or development of mineral resources proposed on sites within the CRGNSA area more than three (3) miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:
 - a. The site plan requirements for such proposals pursuant to this chapter have been met.
 - b. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.
 - c. A reclamation plan to restore the site to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved pursuant to Section 40.240.800(A)(7).
 - d. A written report on a determination of visual subordination has been completed, with findings addressing the extent of visibility of proposed activities from key viewing areas, including

- (1) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible;
 - (2) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas;
 - (3) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible;
 - (4) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible;
 - (5) The degree to which potentially visible minimum surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations; and
 - (6) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.
28. Unless addressed by subsection (26) above, new production and/or development of mineral resources may be allowed upon a demonstration that:
- a. The site plan requirements for such proposals pursuant to this section have been met;
 - b. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc. associated with the use would be fully screened from any key viewing area; and
 - c. A reclamation plan to restore the area to a natural appearance which blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Section 40.240.800(A)(7).
29. An interim time period to achieve compliance with visual subordination requirements for expansion of existing quarries and development of new quarries located more than three (3) miles from the nearest visible key viewing area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed three (3) years beyond the date of approval.
30. An interim time period to achieve compliance with full screening requirements for new quarries located less than three (3) miles from the nearest visible key viewing area shall be established prior to approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed one (1) year beyond the date of approval. Quarrying activity occurring prior to achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).
- C. All Review Uses within the following landscape settings, as delineated by the Columbia River Gorge Management Plan Landscape Settings map, shall comply with the following applicable guidelines:
1. Pastoral.
 - a. Accessory structures, outbuildings and accessways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures and farm fields.
 - b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
 - (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
 - (3) At least one-half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).
 - (4) At least one-quarter of any trees planted for screening shall be coniferous for winter screening.
- ~~The exteriors of structures shall be dark and either natural or earth tone colors unless~~

specifically exempted by ~~[Section 40.240.B.17 or B.18]~~

- c. Compatible recreation uses include resource-based recreation uses of a very low or low-intensity nature as defined by Section 40.240.890 occurring infrequently in the landscape.

2. Coniferous Woodland.

- a. Structure height shall remain below the forest canopy level.
- b. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (1) Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.
 - (2) At least one-half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa, pine and Oregon white oak, and various native willows (for riparian areas).
 - (3) At least one-half of any trees planted for screening purposes shall be coniferous to provide winter screening.
- c. Compatible recreation uses include resource-based recreation uses of varying intensities. Typically, outdoor recreation uses should be low-intensity, and include trails, small picnic areas and scenic viewpoints. Some more intensive recreation uses, such as campgrounds, may occur. They should be scattered, interspersed with large areas of undeveloped land and low-intensity uses.

3. Rural Residential.

- a. Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.
- b. In portions of this setting visible from key viewing areas the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (1) Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.
 - (2) Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.
 - (3) At least one-half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern gorge).
 - (4) At least one-quarter of any trees planted for screening purposes shall be coniferous to provide winter screening.
- c. Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses (such as scenic overlooks).

4. Rural Residential/Pastoral.

- a. New development in this setting shall meet the design guidelines for both the Rural Residential setting and the more rural Pastoral setting with which it is combined unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.
- b. In the event of a possible conflict between the guidelines, the guidelines for the more rural Pastoral setting shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.
- c. Compatible recreation uses should be limited to very low and low-intensity resource-based recreation uses, scattered infrequently in the landscape.

5. River Bottomlands.

- a. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordination for new development and expansion of existing development:
 - (1) Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.
 - (2) At least one-half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include: black cottonwood, big leaf maple, red alder, Oregon white oak, Douglas fir, western red cedar and western hemlock (west Gorge) and various native willow species.
 - (3) At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.
 - b. Compatible recreation uses depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses which do not impair wetlands or special habitat requirements may be compatible. In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible; provided, that:
 - (1) Their designs emphasize retention and/or enhancement of native riparian communities;
 - (2) Structures and parking areas are visually subordinate; and
 - (3) They are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.
- D. All Review Uses within Scenic Travel Corridors shall comply with the following applicable guidelines:
1. For the purposes of implementing this section, the foreground of a Scenic Travel Corridor shall include those lands within one-quarter mile of the edge of pavement of the Washington State Route 14.
 2. All new buildings and alterations to existing buildings, except in a Rural Center designation (village landscape setting), shall be set back at least one hundred (100) feet from the edge of pavement of Washington State Route 14 (SR-14). A variance to this setback requirement may be granted pursuant to Section 40.240.150. All new parking lots and expansions of existing parking lots shall be set back at least one hundred (100) feet from the edge of pavement of SR-14, to the maximum extent practicable.
 3. Additions to existing buildings or expansion of existing parking lots located within one hundred (100) feet of the edge of pavement of a SR-14 shall comply with subsection (D)(2) above to the maximum extent practicable.
 4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:
 - a. An evaluation of potential visual impacts of the proposed project as seen from any key viewing area, and
 - b. An inventory of any rare plants, sensitive wildlife habitat, wetlands or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable guidelines to protect the resources.
 5. When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory* prepared in April, 1990.
 6. New production and/or development of mineral resources proposed within one-quarter mile of the edge of pavement of a SR-14 may be allowed upon a demonstration that full visual screening of the site from SR-14 can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over seventy-five percent (75%) of the tree canopy

area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within one hundred (100) feet of SR-14, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within time frames specified in Section 40.240.800(B)(29).

7. Expansion of existing quarries may be allowed pursuant to Section 40.240.800(B)(27). Compliance with visual subordination requirements shall be achieved within time frames specified in Section 40.240.800(B)(29).

40.240.810 ~~40.240.500~~ SPECIAL MANAGEMENT AREA SCENIC REVIEW CRITERIA

A. SMA Design Guidelines Based on Landscape Settings.

The following guidelines apply to all lands within SMA landscape settings regardless of visibility from key viewing areas (includes areas seen from key viewing areas as well as areas not seen from key viewing areas):

1. Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.
 - a. The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows as commonly found in the landscape setting is encouraged.
2. Coniferous Woodlands areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland landscape.
 - a. Buildings in the Coniferous Woodland landscape setting shall be encouraged to have a vertical overall appearance.
 - b. Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.
3. River Bottomlands: River bottomland shall retain the overall visual character of a floodplain and associated islands.
 - a. Buildings shall have an overall horizontal appearance in areas with little tree cover.
 - b. Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

B. SMA Guidelines for development and uses visible from key viewing areas.

1. The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.
2. New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.
3. In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.
4. Proposed developments or land use shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.
5. The required SMA scenic standards for all development and uses are summarized below in Table 40.240.810-1.
6. The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.
 - a. Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to the following:
 - (1) amount of area of the building site exposed to key viewing areas;
 - (2) degree of existing vegetation providing screening;

- (3) distance from the building site to the key viewing areas from which it is visible;
 (4) number of key viewing areas from which it is visible; and
 (5) linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas such as roads).

Table 40.240.810-1. Required SMA Scenic Standards		
LANDSCAPE SETTING	LAND USE DESIGNATION	SCENIC STANDARD
<u>Coniferous Woodland</u>	<u>Forest (National Forest Lands), Open Space</u>	<u>Not Visually Evident</u>
<u>River Bottomlands</u>	<u>Open Space</u>	<u>Not Visually Evident</u>
<u>Coniferous Woodland</u>	<u>Forest, Agriculture, Residential, Public Recreation</u>	<u>Visually Subordinate</u>
<u>Residential</u>	<u>Residential</u>	<u>Visually Subordinate</u>
<u>Pastoral</u>	<u>Forest, Agriculture, Public Recreation, Open Space</u>	<u>Visually Subordinate</u>
<u>River Bottomlands</u>	<u>Forest, Agriculture, Public Recreation</u>	<u>Visually Subordinate</u>

- b. Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:
- (1) Siting (location of development on the subject property, building orientation, and other elements);
 - (2) Retention of existing vegetation;
 - (3) Design (color, reflectivity, size, shape, height, architectural and design details and other elements; and
 - (4) New landscaping.
7. Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.
8. Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.
9. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.
10. The following guidelines shall apply to new landscaping used to screen development from key viewing areas:
- a. New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.
 - b. If new landscaping is necessary to meet the required standard, existing onsite vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation

- 1 planted pursuant to this guideline shall be sized to provide sufficient screening to meet the
2 scenic standard within five (5) years or less from the commencement of construction.
- 3 c. Landscaping shall be installed as soon as practicable, and prior to project completion.
4 Applicants and successors in interest for the subject parcel are responsible for the proper
5 maintenance and survival of planted vegetation, and replacement of such vegetation that
6 does not survive.
- 7 d. The *Scenic Resources Implementation Handbook* shall include recommended species for
8 each landscape setting consistent with the Landscape Settings Design Guidelines in this
9 chapter, and minimum recommended sizes of new trees planted (based on average growth
10 rates expected for recommended species).
- 11 11. Unless expressly exempted by other provisions in this chapter, colors of structures on sites
12 visible from key viewing areas shall be dark earth-tones found at the specific site or the
13 surrounding landscape. The specific colors or list of acceptable colors shall be included as a
14 condition of approval. The *Scenic Resources Implementation Handbook* will include a
15 recommended palette of colors as dark or darker than the colors in the shadows of the natural
16 features surrounding each landscape setting.
- 17 12. The exterior of buildings on lands seen from key viewing areas shall be composed of non-
18 reflective materials or materials with low reflectivity. The *Scenic Resources Implementation*
19 *Handbook* will include a recommended list of exterior materials. These recommended materials
20 and other materials may be deemed consistent with this guideline, including those where the
21 specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the
22 *Implementation Handbook*. Continuous surfaces of glass unscreened from key viewing areas
23 shall be limited to ensure meeting the scenic standard. Recommended square footage limitations
24 for such surfaces will be provided for guidance in the *Implementation Handbook*.
- 25 13. Any exterior lighting shall be sited, limited in intensity, shielded or hooded in a manner that
26 prevents lights from being highly visible from key viewing areas and from noticeably
27 contrasting with the surrounding landscape setting except for road lighting necessary for safety
28 purposes.
- 29 14. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed three (3)
30 month's duration.
- 31
- 32 C. SMA Guidelines for Key Viewing Area Foregrounds and Scenic Routes.
- 33 1. All new developments and land uses immediately adjacent to scenic routes shall be in
34 conformance with state or county scenic route guidelines.
- 35 2. Scenic highway corridor strategies shall be developed and implemented for Washington State
36 Route 14 (SR-14). For SR-14 this involves ongoing implementation (and possible updating) of the
37 associated existing documents.
- 38 3. The goals of scenic corridor strategies shall include: 1) providing a framework for future highway
39 improvements and management that meet Management Plan scenic guidelines and public
40 transportation needs; and 2) creating design continuity for the highway corridor within the Scenic
41 Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual
42 designs, etc.) for typical projects that are consistent with Management Plan scenic resources
43 provisions and an interdisciplinary, interagency project planning and development process.
- 44 4. The following guidelines shall apply only to development within the immediate foregrounds of key
45 viewing areas. Immediate foregrounds are defined as within the developed prism of a river, road or
46 trail key viewing area. These guidelines apply in addition to applicable guidelines of Section
47 40.240.810(B).
- 48 a. The proposed development shall be designed and sited to meet the applicable scenic
49 standard from the foreground of the subject key viewing area. If the development cannot
50 meet the standard, findings must be made documenting why the project cannot meet the
51 requirements in Section 40.240.810(B) and why it cannot be redesigned or wholly or partly
52 relocated to meet the scenic standard.
- 53 b. Findings must evaluate the following:
- 54 (1) The limiting factors to meeting the required scenic standard and/or applicable guidelines
55 from the Section 40.240.810(B);

- 1 (2) Reduction in project size;
2 (3) Options for alternative sites for all or part of the project, considering parcel configuration
3 and on-site topographic or vegetative screening; and
4 (4) Options for design changes including changing the design shape, configuration, color,
5 height, or texture in order to meet the scenic standard.
6 c. Form, line, color, texture, and design of a proposed development shall be evaluated to
7 ensure that the development blends with its setting as seen from the foreground of key
8 viewing areas:
9 (1) Form and Line-design of the development shall minimize changes to the form of the
10 natural landscape. Development shall borrow form and line from the landscape setting
11 and blend with the form and line of the landscape setting. Design of the development
12 shall avoid contrasting form and line that unnecessarily call attention to the development.
13 (2) Color shall be found in the project's surrounding landscape setting. Colors shall be
14 chosen and repeated as needed to provide unity to the whole design.
15 (3) Texture borrowed from the landscape setting shall be emphasized in the design of
16 structures. Landscape textures are generally rough, irregular, and complex rather than
17 smooth, regular, and uniform.
18 (4) Design solutions shall be compatible with the natural scenic quality of the Gorge.
19 Building materials shall be natural or natural appearing. Building materials such as
20 concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize
21 with the natural environment. Design shall balance all design elements into a
22 harmonious whole, using repetition of elements and blending of elements as necessary.
23 5. Right-of-way vegetation shall be managed to minimize visual impact of clearing and other
24 vegetation removal as seen from key viewing areas. Roadside vegetation management (vista
25 clearing, planting, etc.) should enhance views from the highway.
26 6. Screening from key viewing areas shall be encouraged for existing and required for new road
27 maintenance, warehouse, and stockpile areas.
28
29 D. SMA Guidelines for Areas Not Seen from Key Viewing Areas.
30 1. Unless expressly exempted by other provisions in this chapter, colors of structures on sites not
31 visible from key viewing areas shall be earth-tones found at the specific site. The specific colors
32 or list of acceptable colors shall be approved as a condition of approval, drawing from other
33 recommended palette of colors included in the *Scenic Resources Implementation Handbook*.
34
35

36 **40.240.820 ~~40.240.510~~ GENERAL MANAGEMENT AREA CULTURAL RESOURCE REVIEW**
37 **CRITERIA**
38

- 39 A. General Provisions for Implementing the Cultural Resources Protection Process.
40 1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed
41 by professionals whose expertise reflects the type of cultural resources that are involved.
42 Principal investigators shall meet the professional standards published in 36 CFR Part 61 and
43 *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no
44 date).
45 2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be
46 conducted in consultation with Indian tribal governments and any party who submits written
47 comments on a the proposed use related to such surveys, assessments, plans and evaluations.
48 Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or
49 otherwise associated with Native Americans. If the cultural resources are associated with
50 non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal
51 governments do not have to be consulted.
52 3. Reconnaissance and Historic Surveys and Survey Reports.
53 a. Reconnaissance survey requirements and exceptions.

- (1) A reconnaissance survey shall be required for all proposed uses within five hundred (500) feet of a known cultural resource, including those uses listed as exceptions in Section 40.240.820(A)(3)(a)(2).
- (2) A reconnaissance survey shall be required for all proposed uses, except:
- (a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
 - (b) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, bunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
 - (c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.
 - (d) Proposed uses that occur on sites that have been disturbed by human activities; provided, that the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
 - (e) Proposed uses that would occur on sites that have been adequately surveyed in the past. The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.
 - (f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:
 - (i) Residential development that involves two or more new dwellings for the same project applicant.
 - (ii) Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
 - (iii) Public transportation facilities that are outside improved rights-of-way.
 - (iv) Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater.
 - (v) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.
 - (vi) Areas that have a low probability of containing cultural resources shall be identified by the Columbia River Gorge Commission using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.
- b. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty (50) years old or older.
- c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA General Management Area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the

- responsibility of the project applicant. For this section, large-scale uses include residential development involving two (2) or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.
- d. Reconnaissance Surveys for Small-Scale Uses. Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:
- (1) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
 - (2) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.
- e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:
- (1) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
 - (2) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
 - (3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.
- f. Reconnaissance Surveys for Large-Scale Uses.
- (1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commissions designated archaeologist.
 - (2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
 - (a) Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
 - (b) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
 - (c) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
 - (d) Archaeological site inventory forms shall be submitted to the SHPO whenever cultural resources are discovered.
- g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:
- (1) A description of the proposed use, including drawings and maps.
 - (2) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
 - (3) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
 - (4) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of one inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.
 - (5) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of one inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

- (6) A summary of all written comments submitted by Indian tribal governments and other interested parties.
- (7) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.
- h. Historic Surveys and Reports.
- (1) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
- (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
- (3) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
4. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
5. Cultural resources are significant if one of the following criteria is satisfied:
- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4).
- b. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.
6. The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the responsible official as to whether affected cultural resources are significant.
- B. Cultural Resource Reconnaissance and Historic Surveys.
1. Consultation and Ethnographic Research.
- a. When written comments are submitted to the responsible official within the comment period provided for in Section 40.240.050(E), the project applicant shall offer to meet with the commenting parties within ten (10) calendar days. The ten- (10-) day consultation period may be extended upon agreement between the project applicant and the commenting parties. Consultation meetings should provide an opportunity for commenting parties to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed. All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.
- b. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if parties commenting on the application submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate. All written comments,

- 1 consultation meeting minutes, and ethnographic research shall be incorporated into the
2 reconnaissance or historic survey report. In instances where a survey is not required, all such
3 information shall be recorded and addressed in a report that typifies a survey report.
- 4 2. Notice of Survey Results.
- 5 a. The responsible official shall submit a copy of all cultural resource survey reports to the
6 SHPO and the Indian tribal governments. Survey reports may include measures to avoid
7 affected cultural resources, such as a map that shows a reasonable buffer zone.
- 8 b. The SHPO and the tribes shall have thirty (30) calendar days from the date a survey report is
9 mailed to submit written comments to the responsible official. The responsible official shall
10 record and address all written comments in the development review order.
- 11 3. Conclusion of the Cultural Resource Protection Process.
- 12 a. The responsible official shall make a final decision on whether the proposed use would be
13 consistent with this section. If the final decision contradicts the comments submitted by the
14 SHPO, the responsible official shall justify how it reached an opposing conclusion.
- 15 b. The cultural resource protection process may conclude when one of the following conditions
16 exists:
- 17 (1) The proposed use does not require a reconnaissance or historic survey, no cultural
18 resources are known to exist in the project area, and no substantiated concerns were
19 voiced by parties commenting on the application within twenty-one (21) calendar days of
20 the date that a notice was mailed.
- 21 (2) A reconnaissance survey demonstrates that cultural resources do not exist in the project
22 area and no substantiated concerns were voiced by commenting parties within twenty-
23 one (21) calendar days of the date that a notice was mailed.
- 24 (3) The proposed use would avoid archaeological resources and traditional cultural
25 resources that exist in the project area. To meet this guideline, a reasonable buffer zone
26 must be established around the affected resources or properties; all ground-disturbing
27 activities shall be prohibited within the buffer zone. Buffer zones must preserve the
28 integrity and context of cultural resources. They will vary in width depending on the
29 eventual use of the project area, the type of cultural resources that are present, and the
30 characteristics for which the cultural resources may be significant. A deed covenant
31 easement or other appropriate mechanism shall be developed to ensure that the buffer
32 zone and the cultural resources are protected. An evaluation of significance shall be
33 conducted if a project applicant decides not to avoid the affected cultural resource. In
34 these instances, the reconnaissance survey and survey report shall be incorporated into
35 the evaluation of significance.
- 36 c. A historic survey demonstrates that the proposed use would not have an effect on historic
37 buildings or structures because:
- 38 (1) The SHPO concludes that the historic buildings or structures are clearly not significant,
39 as determined by using the criteria in the "National Register Criteria for Evaluation" (36
40 CFR 60.4), or
- 41 (2) The proposed use would not compromise the historic or architectural character of the
42 affected buildings or structures, or compromise features of the site that are important in
43 defining the overall historic character of the affected buildings or structures, as
44 determined by the guidelines and standards in *The Secretary of the Interior's Standards*
45 *for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* and *The*
46 *Secretary of the Interior's Standards for Treatment of Historic Properties*. The historic
47 survey conducted by the Gorge Commission may provide sufficient information to satisfy
48 these guidelines. If it does not, architectural and building plans, photographs, and
49 archival research may be required. The project applicant shall be responsible for
50 providing information beyond that included in the survey conducted by the Gorge
51 Commission. The historic survey and report must demonstrate that these guidelines have
52 been clearly and absolutely satisfied. If the SHPO or the responsible official question
53 whether these guidelines have been satisfied, the project applicant shall conduct an
54 evaluation of significance.
- 55

1 C. Evaluation of Significance.

2 1. Evaluation Criteria and Information Needs. If cultural resources would be affected by a new use,
3 an evaluation of their significance shall be conducted. Evaluations of significance shall meet the
4 following guidelines:

- 5 a. Evaluations of significance shall follow the procedures in *How to Apply the National Register*
6 *Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for*
7 *Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They
8 shall be presented within local and regional contexts and shall be guided by previous
9 research and current research designs that are relevant to specific research questions for the
10 Columbia River Gorge.
11 b. To evaluate the significance of cultural resources, the information gathered during the
12 reconnaissance or historic survey may have to be supplemented. Detailed field mapping,
13 subsurface testing, photographic documentation, laboratory analyses, and archival research
14 may be required.
15 c. The project applicant shall contact Indian tribal governments and commenting parties as
16 appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the
17 significance of the cultural resources.
18 d. The evaluation of significance shall follow the principles, guidelines, and report format
19 recommended by Washington Office of Archaeology and Historic Preservation (Washington
20 SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and
21 shall illustrate why each cultural resource is or is not significant. Findings shall be presented
22 within the context of relevant local and regional research.
23 e. All documentation used to support the evaluation of significance shall be cited. Evidence of
24 consultation with Indian tribal governments and other commenting parties shall be presented.
25 All comments, recommendations, and correspondence from Indian tribal governments and
26 commenting parties shall be appended to the evaluation of significance.

27 2. Notice of Evaluation Results.

- 28 a. If the evaluation of significance demonstrates that the cultural resources are not significant,
29 the responsible official shall submit a copy of the evaluation of significance to the SHPO and
30 the Indian tribal governments.
31 b. The SHPO, Indian tribal governments, and commenting parties shall have thirty (30) calendar
32 days from the date the evaluation of significance is mailed to submit written comments to the
33 responsible official. The responsible official shall record and address all written comments in
34 the development review order.

35 3. Cultural Resources are Culturally Significant.

- 36 a. If an Indian tribal government believes that the affected cultural resources are culturally
37 significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory
38 Committee (CAC) shall make an independent review of the applications evaluation and the
39 Indian tribal government's substantiated concerns. The CAC shall formulate a
40 recommendation regarding the significance of the cultural resources.
41 b. The Indian tribal government shall substantiate its concerns in a written report. The report
42 shall be submitted to the responsible official, CAC, and the project applicant within fifteen (15)
43 calendar days from the date the evaluation of significance is mailed. The CAC must submit its
44 recommendation to the responsible official within thirty (30) calendar days from the date the
45 evaluation of significance is mailed.

46 4. Conclusion of the Cultural Resource Protection Process.

- 47 a. The responsible official shall make a final decision on whether the affected resources are
48 significant. If the final decision contradicts the comments or recommendations submitted by
49 the SHPO or CAC, the responsible official shall justify how an opposing conclusion was
50 reached.
51 b. The cultural resource protection process may conclude if the affected cultural resources are
52 not significant.
53 c. If the project applicant or the responsible official determines that the cultural resources are
54 significant, the effects of the proposed use shall be assessed.
55

1 D. Assessment of Effect.

- 2 1. Assessment Criteria and Information Needs. If a use could potentially affect significant cultural
3 resources, an assessment shall be made to determine if it would have no effect, no adverse
4 effect, or an adverse effect.
- 5 a. The assessment of effect shall be based on the criteria published in "Protection of Historic
6 Properties" (36 CFR 800.9) and shall incorporate the results of the reconnaissance or historic
7 survey and the evaluation of significance. All documentation shall follow the requirements
8 listed in 36 CFR 800.8.
- 9 (1) Proposed uses are considered to have an effect on cultural resources when they alter or
10 destroy characteristics of the resources that make them significant (36 CFR 800.9(a)).
- 11 (2) Proposed uses are considered to have an adverse effect when they may diminish the
12 integrity of the cultural resource's location, design, setting, materials, workmanship,
13 feeling, or association (36 CFR 800.9(b)). Adverse effects on cultural resources include,
14 but are not limited to:
- 15 (a) Physical destruction, damage, or alteration of all or part of the cultural resource.
- 16 (b) Isolation of the cultural resource from its setting or alteration of the character of the
17 resource's setting when that character contributes to the resource's qualification as
18 being significant.
- 19 (c) Introduction of visual, audible, or atmospheric elements that are out of character with
20 the cultural resource or its setting.
- 21 (d) Neglect of a significant cultural resource resulting in its deterioration or destruction.
- 22 b. The assessment of effect shall be prepared in consultation with Indian tribal governments and
23 interested persons, as appropriate. The concerns and recommendations voiced by Indian
24 tribal governments and interested persons shall be recorded and addressed in the
25 assessment.
- 26 c. The effects of a proposed use that would otherwise be determined to be adverse may be
27 considered to be not adverse if any of the following instances apply:
- 28 (1) The cultural resources are of value only for their potential contribution to archeological,
29 historical, or architectural research, and when such value can be substantially preserved
30 through the conduct of appropriate research before development begins, and such
31 research is conducted in accordance with applicable professional standards and
32 guidelines.
- 33 (2) The undertaking is limited to the rehabilitation of buildings and structures, and is
34 conducted in a manner that preserves the historical and architectural character of
35 affected cultural resources through conformance with *The Secretary of the Interior's*
36 *Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic*
37 *Buildings and The Secretary of the Interior's Standards for Treatment of Historic*
38 *Properties*.
- 39 2. Notice of Assessment Results.
- 40 a. If the assessment of effect concludes that the proposed use would have no effect or no
41 adverse effect on significant cultural resources, the responsible official shall submit a copy of
42 the assessment to the SHPO and the Indian tribal governments.
- 43 b. The SHPO, Indian tribal governments, and interested persons shall have thirty (30) calendar
44 days from the date the assessment of effect is mailed to submit written comments to the
45 responsible official. The responsible official shall record and address all written comments in
46 the development review order.
- 47 3. Conclusion of the Cultural Resource Protection Process.
- 48 a. The responsible official shall make a final decision on whether the proposed use would have
49 no effect, no adverse effect, or an adverse effect. If the final decision contradicts the
50 comments submitted by the SHPO, the responsible official shall justify how an opposing
51 conclusion was reached.
- 52 b. The cultural resource protection process may conclude if the proposed use would have no
53 effect or no adverse effect on significant cultural resources.
- 54 c. A mitigation plan shall be prepared if a project applicant or the responsible official determines
55 that the proposed use would have an adverse effect on significant cultural resources.

1 E. Mitigation Plans.

2 1. Mitigation Plan Criteria and Information Needs. Mitigation plans shall be prepared when proposed
3 uses would have an adverse effect on significant cultural resources. The plans shall reduce an
4 adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following
5 guidelines:

- 6 a. Mitigation plans shall be prepared in consultation with persons who have concerns about or
7 knowledge of the affected cultural resources, including Indian tribal governments, Native
8 Americans, local governments whose jurisdiction encompasses the project area, and the
9 SHPO.
- 10 b. Avoidance of cultural resources through project design and modification is preferred.
11 Avoidance may be affected by reducing the size, scope, configuration, and density of the
12 proposed use.
- 13 c. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative
14 measures include, but are not limited to, burial under fill, stabilization, removal of the cultural
15 resource to a safer place, and partial to full excavation and recordation. If the mitigation plan
16 includes buffer zones to protect cultural resources, a deed covenant, easement, or other
17 appropriate mechanism shall be developed and recorded in county deeds and records.
18 Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the
19 evaluation of significance, and the assessment of effect, and shall provide the documentation
20 required in 36 CFR 800.8(d), including, but not limited to:
- 21 (1) A description and evaluation of any alternatives or mitigation measures that the project
22 applicant proposes for reducing the effects of the proposed use.
- 23 (2) A description of any alternatives or mitigation measures that were considered but not
24 chosen and the reasons for their rejection.
- 25 (3) Documentation of consultation with the SHPO regarding any alternatives or mitigation
26 measures.
- 27 (4) A description of the project applicant's efforts to obtain and consider the views of Indian
28 tribal governments, commenting parties, and the responsible official.
- 29 (5) Copies of any written recommendations submitted to the responsible official or project
30 applicant regarding the effects of the proposed use on cultural resources and alternatives
31 to avoid or reduce those effects.

32 2. Notice of Mitigation Plan Results.

- 33 a. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no
34 adverse effect, the responsible official shall submit a copy of the mitigation plan to the SHPO
35 and the Indian tribal governments.
- 36 b. The SHPO, Indian tribal governments, and commenting parties shall have thirty (30) calendar
37 days from the date the mitigation plan is mailed to submit written comments to the
38 responsible official. The responsible official shall record and address all written comments in
39 the development review order.

40 3. Conclusion of the Cultural Resource Protection Process.

- 41 a. The responsible official shall make a final decision on whether the mitigation plan would
42 reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the
43 comments submitted by the SHPO, the responsible official shall justify how an opposing
44 conclusion was reached.
- 45 b. The cultural resource protection process may conclude if a mitigation plan would reduce an
46 adverse effect to no effect or no adverse effect.
- 47 c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an
48 adverse effect to no effect or no adverse effect.
- 49

50 F. Cultural Resources Discovered After Construction Begins.

51 The following procedures shall be put into effect ~~effect~~ when cultural resources are discovered
52 during construction activities. All survey and evaluation reports and mitigation plans shall be
53 submitted to the responsible official and the SHPO. Indian tribal governments also shall receive a
54 copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with
55 Native Americans.

1. Halt of Construction. All construction activities within one hundred (100) feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
2. Notification. The project applicant shall notify the responsible official and the Gorge Commission within twenty-four (24) hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within twenty-four (24) hours.
3. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in Sections 40.240.820(A)(3)(g) and Section 40.240.820(C)(1). Based on the survey, evaluation report and any written comments, the responsible official shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.
4. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in Section 40.240.820(E)(1). Construction activities may recommence when the conditions in the mitigation plan have been executed.

G. Discovery of Human Remains.

The following procedures shall be ~~put into effect~~ ~~effected~~ when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
2. Notification. Local law enforcement officials, the responsible official, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
3. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic; or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
4. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
5. Treatment. Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth RCW 27.44 and 68.05 if the remains are prehistoric/historic. If the human remains will be re-interred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in Section 40.240.820(E)(1). The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in Section 40.240.820(E)(3) are met and the mitigation plan is executed.

40.240.830 ~~40.240.520~~ SPECIAL MANAGEMENT AREA CULTURAL RESOURCE REVIEW CRITERIA

A. General Guidelines for Implementing the Cultural Resources Protection Process.

1. All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.
2. All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

3. The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section 40.240.830(D) for forest practices and National Forest System lands.
 4. New developments or land uses shall not adversely affect significant cultural resources.
- B. The procedures and guidelines in Section 40.240.820 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.
- C. The procedures and guidelines in 36 CFR 800 and Section 40.240.830(D) shall be used by federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.
- D. The following procedures as well as the provisions in 36 CFR 800 shall be used to assess potential effects to cultural resources.
1. Literature Review and Consultation.
 - a. An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.
 - b. A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for thirty (30) days.
 - c. Consultation with cultural resource professionals knowledgeable about the area.
 - d. A field inventory by a cultural resource professional shall be required if the Forest Service or the responsible official determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.
 2. Field Inventory.
 - a. Tribal representatives shall be invited to participate in the field inventory.
 - b. The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:
 - (1) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly-spaced transects. A complete survey may also require techniques such as clearing of vegetation, ~~auguring~~ ~~augering~~ or shovel probing of subsurface soils for the presence of buried cultural resources.
 - (2) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.
 - c. A field inventory report shall be prepared, and shall include the following:
 - (1) A narrative integrating the literature review of subsection (D)(1) above with the field inventory of subsection (D)(2)(b) above.
 - (2) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.
 - (3) A statement of the presence or absence of cultural resources within the area of the new development or land use.

- 1 (4) When cultural resources are not located, a statement of the likelihood of buried or
2 otherwise concealed cultural resources shall be included. Recommendations and
3 standards for monitoring, if appropriate, shall be included.
- 4 d. The report shall follow the format specified by the Washington Office of Archaeology and
5 Historic Preservation for inventories conducted in the State of Washington.
- 6 e. The field inventory report shall be presented to the Forest Service or the responsible official
7 for review.
- 8 3. Evaluations of Significance.
- 9 a. When cultural resources are found within the area of the new development or land use, an
10 evaluation of significance shall be completed for each cultural resource in accordance with to
11 the criteria of the National Register of Historic Places (36 CFR 60.4).
- 12 b. Evaluations of cultural resource significance shall be guided by previous and current research
13 designs relevant to specific research questions for the area.
- 14 c. Evaluations of the significance of traditional cultural properties shall follow National Register
15 Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural
16 Properties, within local and regional contexts.
- 17 d. Recommendations for eligibility to the National Register shall be completed for each identified
18 resource, in accordance with National Register criteria A through D (36 CFR 60.4). The
19 Forest Service or the responsible official shall review evaluations for adequacy.
- 20 e. Evidence of consultation with tribal governments and individuals with knowledge of the
21 cultural resources in the project area, and documentation of their concerns, shall be included
22 as part of the evaluation of significance.
- 23 f. An assessment of effect shall be required if the Forest Service or the responsible official
24 determines that the inventoried cultural resources are significant.
- 25 4. Assessment of Effect.
- 26 a. For each significant (i.e., National Register eligible) cultural resource inventoried within the
27 area of the proposed development or change in use, assessments of effect shall be
28 completed, using the criteria outlined in 36 CFR 800.9 ("Assessing Effects"). Evidence of
29 consultation with tribal governments and individuals with knowledge of the cultural resources
30 of the project area shall be included for subsections (D)(4)(b) through (D)(4)(d) below. The
31 Forest Service or the responsible official shall review each determination for adequacy.
- 32 b. If the proposed development or change in use will have "No Adverse Effect," as defined by
33 36 CFR 800.8, to a significant cultural resource, documentation for that finding shall be
34 completed, following the "Documentation Requirements" of 36 CFR 800.8(a).
- 35 c. If the proposed development or change in use will have an "Adverse Effect" as defined by 36
36 CFR 800.9(b) to a significant cultural resource, the type and extent of "adverse effect" upon
37 the qualities of the property that make it eligible for the National Register shall be
38 documented. This documentation shall follow the process outlined under 36 CFR 800.5(e).
- 39 d. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources),
40 documentation shall be completed for the recommendation of that effect upon the qualities of
41 the cultural resource that make it eligible to the National Register. This documentation shall
42 follow the process outlined under 36 CFR 800.8 ("Documentation Requirements").
- 43 5. Mitigation.
- 44 a. If there will be an effect on cultural resources, measures shall be provided for mitigation of
45 effects. These measures shall address factors such as avoidance of the property through
46 project design or modification and subsequent protection, burial under fill, data recovery
47 excavations, or other measures which are proposed to mitigate effects.
- 48 b. Evidence of consultation with tribal governments and individuals with knowledge of the
49 resources to be affected, and documentation of their concerns, shall be included for all
50 mitigation proposals.
- 51 c. The Forest Service or the responsible official shall review all mitigation proposals for
52 adequacy.
- 53
54
55

1 E. Discovery During Construction.

2 All authorizations for new developments or land uses shall be conditioned to require the immediate
3 notification of the Forest Service or the responsible official if cultural resources are discovered during
4 construction or development.

- 5 1. If cultural resources are discovered, particularly human bone or burials, work in the immediate
6 area of discovery shall be suspended until a cultural resource professional can evaluate the
7 potential significance of the discovery and recommend measures to protect and/or recover the
8 resources.
- 9 2. If the discovered material is suspected to be human bone or a burial, the following procedure
10 shall be used:
 - 11 a. The applicant shall stop all work in the vicinity of the discovery.
 - 12 b. The applicant shall immediately notify the responsible official, the Forest Service, the
13 applicant's cultural resource professional, the State Medical Examiner, and appropriate law
14 enforcement agencies.
 - 15 c. The Forest Service or the responsible official shall notify the tribal governments if the
16 discovery is determined to be an Indian burial or a cultural resource.
 - 17 d. A cultural resource professional shall evaluate the potential significance of the resource
18 pursuant to Section 40.240.830(D)(3) and report the results to the Forest Service or the
19 responsible official.
- 20 3. The cultural resource review process shall be complete and work may continue if the Forest
21 Service or the responsible official determines that the cultural resource is not significant.
- 22 4. The cultural resource professional shall recommend measures to protect and/or recover the
23 resource pursuant to Section 40.240.830(D)(5) if the Forest Service or the responsible official
24 determines that the cultural resource is significant.

25
26
27 **40.240.840 ~~40.240.530~~ GENERAL MANAGEMENT AREA WETLAND REVIEW CRITERIA**

28
29 A. Wetlands Boundaries and Site Plans for Review Uses in Wetlands.

- 30 1. If the proposed use is within a wetland or wetlands buffer zone, the applicant shall be responsible
31 for determining the exact location of the wetland boundary.
 - 32 a. The approximate location and extent of wetlands in the Scenic Area are indicated on the list
33 of hydric soils and the soil survey maps and the National Wetlands Inventory (U.S.
34 Department of the Interior 1987). Wetlands boundaries shall be delineated using the
35 procedures specified in the *Corp of Engineers Wetlands Delineation Manual* (Wetlands
36 Research Program Technical Report Y-87-1, on-line edition, updated through March 21,
37 1997).
 - 38 b. All wetlands delineations shall be conducted by a professional who has been trained to use
39 the federal delineation process, such as a soil scientist, botanist, or wetlands ecologist.
 - 40 c. The responsible official may verify the accuracy of, and may render adjustments to, a
41 wetlands boundary delineation. In the event the adjusted boundary delineation is contested
42 by the applicant, the responsible official shall, at the applicant's expense, obtain professional
43 services to render a final delineation.
 - 44 d. Proposed uses within wetlands or wetlands buffer areas shall comply with SEPA, this section,
45 and Chapter 40.450, as applicable. Chapter 40.240 shall prevail in cases of conflict with such
46 regulations.
- 47 2. In addition to the information required in all site plans, site plans for proposed uses in wetlands or
48 wetlands buffer zones shall include:
 - 49 a. a site plan map prepared at a scale of one inch equals one hundred (100) feet (1:1,200), or a
50 scale providing greater detail;
 - 51 b. the exact boundary of the wetland and the wetlands buffer zone; and
 - 52 c. a description of actions that would alter or destroy the wetland.

53
54 B. Uses allowed outright in wetlands and wetlands buffer zones.

55 Uses allowed outright in wetlands and wetlands buffer zones are listed in Section 40.240.120.

1 This section shall not apply to proposed uses that would occur in the main stem of the Columbia
2 River. The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia
3 River Gorge National Scenic Area," numbered NSA-001 and dated September 1986. This map is
4 available at county planning departments and Commission and Forest Service offices. The
5 boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For
6 Section 40.240.050, backwaters and isolated water bodies created by roads and railroads are not
7 part of the main stem of the Columbia River.
8

9 C. The following uses may be allowed in wetlands and wetlands buffer zones when approved pursuant
10 to the provisions in Section 40.240.840(E), and reviewed under the applicable provisions of Sections
11 40.240.800 through 40.240.900:

- 12 1. The modification, expansion, replacement, or reconstruction of serviceable structures, if such
13 actions would not:
 - 14 a. Increase the size of an existing structure by more than one-hundred percent (100%);
 - 15 b. Result in a loss of wetlands acreage or functions; or
 - 16 c. Intrude further into a wetland or wetlands buffer zone. New structures shall be considered
17 intruding further into a wetland or wetlands buffer zone if any portion of the structure is
18 located closer to the wetland or wetlands buffer zone than the existing structure.
- 19 2. The construction of minor water-related recreation structures that are available for public use.
20 Structures in this category shall be limited to boardwalks, trails and paths; provided, that their
21 surface is not constructed of impervious materials; observation decks; and interpretative aids,
22 such as kiosks and signs.
- 23 3. The construction of minor water-dependent structures that are placed on pilings, if the pilings
24 allow unobstructed flow of water and are not placed so close together that they effectively convert
25 an aquatic area to dry land. Structures in this category shall be limited to public and private docks
26 and boat houses, and fish and wildlife management structures that are constructed by federal,
27 state, or tribal resource agencies.
28

29 D. Uses not listed in Sections 40.240.840(B) and (C) may be allowed in wetlands and wetlands buffer
30 zones, when approved pursuant to Section 40.240.840(F) and reviewed under the applicable
31 provisions of Sections 40.240.800 through 40.240.900.
32

33 E. Applications for modifications to serviceable structures and minor water-dependent and water-related
34 structures in wetlands shall demonstrate that:

- 35 1. Practicable alternatives to locating the structure outside of the wetlands or wetland buffer zone
36 and/or minimum the impacts of the structure do not exist;
- 37 2. All reasonable measures have been applied to ensure that the structure will result in the minimum
38 feasible alteration or destruction of the wetlands, existing contour, functions, vegetation, fish and
39 wildlife resources, and hydrology;
- 40 3. The structure will be constructed using best management practices;
- 41 4. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent
42 practicable; and
- 43 5. The structure complies with all applicable federal, state, and county laws.
44

45 F. Applications for all other Review Uses in wetlands shall demonstrate that:

- 46 1. The proposed use is water-dependent, or is not water-dependent but has no practicable
47 alternative considering a of the following:
 - 48 a. The basic purpose of the use cannot be reasonably accomplished using one (1) or more
49 other sites in the vicinity that would avoid or result in less adverse effects on wetlands;
 - 50 b. The basic purpose of the use cannot be reasonably accomplished by reducing its size,
51 scope, configuration, or density as proposed, or by changing the design of the use in a way
52 that would avoid or result in less adverse effects on wetlands; and
 - 53 c. Reasonable attempts have been made to remove or accommodate constraints that caused a
54 project applicant to reject alternatives to the use as proposed. Such constraints include
55 inadequate infrastructure, parcel size, and zone designations. If a land designation or

- recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.
2. The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:
 - a. The extent of public need for the proposed use;
 - b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited;
 - c. The functions and size of the wetland that may be affected;
 - d. The economic value of the proposed use to the general area; and
 - e. The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.
 3. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.
 4. Groundwater and surface-water quality will not be degraded by the proposed use.
 5. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.
 6. The proposed use complies with all applicable federal, state, and county laws.
 7. Areas that are disturbed during construction will be rehabilitated to the maximum extent practicable.
 8. Unavoidable impacts to wetlands will be offset through restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts. The following wetlands restoration, creation, and enhancement guidelines shall apply:
 - a. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.
 - b. Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with Section 40.240.840(H) and Chapter 40.450, although Chapter 40.240 shall prevail in cases of conflict.
 - c. Wetlands restoration, creation, and enhancement projects shall use native vegetation.
 - d. The size of replacement wetlands shall equal or exceed the following ratios (the first number specifies the required acreage of replacement wetlands and the second number specifies the acreage of wetlands altered or destroyed):
 - (1) Restoration: 2:1
 - (2) Creation: 3:1
 - (3) Enhancement: 4:1
 - e. Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.
 - f. Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this guideline is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted; provided, that no net loss of wetlands functions occurs.
 - g. Wetlands restoration, creation, or enhancement should occur within one thousand (1,000) feet of the affected wetland. If this is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.
 - h. Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.
 - i. Five years after a wetland is restored, created, or enhanced at least seventy-five percent (75%) of the replacement vegetation must survive. For a period of at least five (5) years the owner shall monitor the hydrology and vegetation of the replacement wetland and shall take

corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

G. Wetlands Buffer Zones.

1. The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.
2. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.
 - a. A forest vegetation community is characterized by trees with an average height equal to or greater than twenty (20) feet, accompanied by a shrub layer; trees must form a canopy cover of at least forty percent (40%) and shrubs must form a canopy cover of at least forty percent (40%). A forest community without a shrub component that forms a canopy cover of at least forty percent (40%) shall be considered a shrub vegetation community.
 - b. A shrub vegetation community is characterized by shrubs and trees that are greater than three (3) feet tall and form a canopy cover of at least forty percent (40%).
 - c. An herbaceous vegetation community is characterized by the presence of herbs, including grass and grass-like plants, forbs, ferns, and non-woody vines.
3. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:
 - a. Forest communities: 75 feet
 - b. Shrub communities: 100 feet
 - c. Herbaceous communities: 150 feet
4. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species as identified in the Clark County Plant List (see the Standard Details Manual).

H. Wetlands Compensation Plans.

Wetlands compensation plans shall be prepared when a project applicant is required to restore, create or enhance wetlands. They shall satisfy the following guidelines:

1. Wetlands compensation plans shall be prepared by a qualified professional hired by a project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.
2. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.
3. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.
4. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than one (1) foot, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
 - a. Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.
 - b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.
 - c. Water-quality parameters, water source, water depths, water-control structures, and water-level maintenance practices needed to achieve the necessary hydrologic conditions.
5. A five- (5-) year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.
6. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

I. Wetlands enhancement projects shall be consistent with Section 40.240.840(H).

40.240.850 ~~40.240.540~~ GENERAL MANAGEMENT AREA STREAM, POND, LAKE AND RIPARIAN AREA REVIEW CRITERIA

A. Stream, Pond, and Lake Boundaries and Site Plans for Review Uses in Aquatic and Riparian Areas.

1. If a proposed use would be in a stream, pond, lake or their buffer zones, the project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation.
2. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include:
 - a. a site plan map prepared at a scale of one inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail;
 - b. the exact boundary of the ordinary high watermark or normal pool elevation and prescribed buffer zone; and
 - c. a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

B. Uses.

Uses allowed outright in streams, ponds, lakes, and their buffer zones are listed in Section 40.240.120.

C. The following uses may be allowed in streams, ponds, lakes and riparian areas when approved pursuant Section 40.240.850(E), and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900:

1. The modification, expansion, replacement, or reconstruction of serviceable structures; provided, that such actions would not:
 - a. Increase the size of an existing structure by more than one hundred percent (100%);
 - b. Result in a loss of water quality, natural drainage, and fish and wildlife habitat; or
 - c. Intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.
2. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths; provided, that their surface is not constructed of impervious materials; observation decks, and interpretative aids, such as kiosks and signs.
3. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

D. Uses not listed in Sections 40.240.850(B) and (C) may be allowed in streams, ponds, lakes, and riparian areas, when approved pursuant to Section 40.240.850(F) and reviewed under the applicable provisions of Sections 40.240.800 through 40.240.900.

E. 1. Applications for modifications to serviceable structures and minor water-dependent and water-related structures in aquatic and riparian areas shall demonstrate that:

- a. Practicable alternatives to locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist;
- b. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas;
- c. The structure will be constructed using best management practices;

- d. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
 - e. The structure complies with all applicable federal, state, and local laws.
2. Applications for all other Review Uses in wetlands streams, ponds, and lakes shall demonstrate that:
- a. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by Section 40.240.840(F)(1), substituting the term stream, pond, lake, or riparian area as appropriate.
 - b. The proposed use is in the public interest as determined by Section 40.240.840(F)(2), substituting the term strewn, pond, lake, or riparian area as appropriate.
 - c. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. At a minimum, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:
 - (1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. The Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods for in-water work.
 - (2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.
 - (3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.
 - (4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
 - (5) Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.
 - (6) Temporary and permanent control measures should be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.
 - d. Groundwater and surface-water quality will not be degraded by the proposed use.
 - e. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of stream, pond, and lake buffer zones.
 - f. The proposed use complies with all applicable federal, state, and county laws.
 - g. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement. Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required. The following rehabilitation and enhancement guidelines shall apply:
 - (1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.
 - (2) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.
 - (3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.
 - (4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
 - (5) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.
 - (6) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

- (7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.
- (8) Rehabilitation and enhancement efforts shall be completed no later than ninety (90) days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
- (9) Three (3) years after an aquatic area or buffer zone is rehabilitated or enhanced, at least seventy-five percent (75%) of the replacement vegetation must survive. The owner shall monitor the replacement vegetation and take corrective measures to satisfy this guideline.

F. Stream, Pond, and Lake Buffer Zones.

1. Buffer zones shall generally be measured landward from the ordinary high water-mark on a horizontal scale that is perpendicular to the ordinary high water-mark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:
 - a. Streams verified by state or federal resource management agencies as habitat for species recognized to be threatened or endangered by the U.S. Fish and Wildlife Service, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources: one-hundred fifty (150) feet.
 - b. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: one hundred (100) feet.
 - c. Intermittent streams; provided, that they are not used by anadromous or resident fish: fifty (50) feet.
 - d. Ponds and lakes: Buffer zone widths shall be based on dominant vegetative community as determined by Section 40.240.840(G)(2), substituting the term pond or lake as appropriate.
2. Except as otherwise allowed, buffer zones shall be retained in their natural condition.
3. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.
4. Determining the exact location of the ordinary high watermark or normal pool elevation shall be the responsibility of the project applicant. The responsible official may verify the accuracy of and may render adjustments to, an ordinary high water-mark or normal pool delineation. In the event the adjusted boundary delineation is contested by the applicant, the responsible official shall, at the project applicant's expense, obtain professional services to render a final delineation.

G. Rehabilitation and Enhancement Plans.

Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake and/or buffer area. They shall satisfy the following guidelines:

1. Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.
2. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.
3. Plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least two (2) feet, slope percentages, and final grade elevations; and other technical information shall be provided in sufficient detail to explain and illustrate:
 - a. Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.
 - b. Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predating.
 - c. Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.
4. A three- (3-) year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual

report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

5. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

H. Wetlands enhancement projects shall be consistent with Section 40.240.840(H).

40.240.860 ~~40.240.550~~ GENERAL MANAGEMENT AREA SENSITIVE WILDLIFE REVIEW CRITERIA

A. Sensitive Wildlife Areas and Sites and Site Plans Near Sensitive Wildlife.

1. Proposed uses shall not adversely affect sensitive wildlife areas or sensitive wildlife sites:
 - a. "Sensitive wildlife areas" in the Columbia Gorge means the following land and water areas that appear in the wildlife inventory map prepared and maintained by the Gorge Commission:
 - (1) Bald eagle habitat;
 - (2) Deer and elk winter range;
 - (3) Elk habitat;
 - (4) Mountain goat habitat;
 - (5) Peregrine falcon habitat;
 - (6) Pika colony area;
 - (7) Piloted woodpecker habitat;
 - (8) Pine marten habitat;
 - (9) Shallow water fish habitat (Columbia R.);
 - (10) Special streams;
 - (11) Special habitat area;
 - (12) Spotted owl habitat;
 - (13) Sturgeon spawning area;
 - (14) Tributary fish habitat.
 - (15) Turkey habitat;
 - (16) Waterfowl area; and
 - (17) Western pond turtle habitat.
 - b. "Sensitive wildlife sites" means sites that are used by animal species that are:
 - (1) listed as endangered or threatened pursuant to federal or state endangered species acts; and
 - (2) listed as endangered, threatened, sensitive, or candidate by the Washington Fish and Wildlife Commission, considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon).
2. In addition to the information required in all site plans, site plans for uses within one thousand (1,000) feet of a sensitive wildlife area or site shall include a map prepared at a scale of one inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

B. Uses.

Uses allowed outright in sensitive wildlife areas are listed in Section 40.240.120.

C. Field Survey.

A field survey to identify sensitive wildlife areas or sites shall be required for:

1. Land divisions that create four (4) or more parcels;
2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
3. Public transportation facilities that are outside improved rights-of-way;
4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
5. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing

1 developed utility sites, that are maintained annually. Field surveys shall cover all areas affected
2 by the proposed use or recreation facility. They shall be conducted by a professional wildlife
3 biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project
4 area shall be described and shown on the site plan map.
5

6 D. Uses not listed in Section 40.240.860(B) may be allowed within one thousand (1,000) feet of a
7 sensitive wildlife area or site, when approved pursuant to Section 40.240.860(E) and reviewed under
8 the applicable provisions of Sections 40.240.800 through 40.240.900.
9

10 E. Uses that are proposed within one thousand (1,000) feet of a sensitive wildlife area or site shall be
11 reviewed as follows:

- 12 1. Site plans shall be submitted to the Washington Department of Fish and Wildlife by the
13 responsible official. State wildlife biologists will review the site plan and their field survey records
14 and:
 - 15 a. Identify/verify the precise location of the wildlife area or site;
 - 16 b. Ascertain whether the wildlife area or site is active or abandoned; and
 - 17 c. Determine if the proposed use may compromise the integrity of the wildlife area or site or
18 occur during the time of the year when wildlife species are sensitive to disturbance, such as
19 nesting or rearing seasons. In some instances, state wildlife biologists may conduct field
20 surveys to verify the wildlife inventory and assess the potential effects of a proposed use.
- 21 2. The following factors may be considered when site plans are reviewed:
 - 22 a. Biology of the affected wildlife species;
 - 23 b. Published guidelines regarding the protection and management of the affected wildlife
24 species. The Washington Department of Fish and Wildlife has prepared guidelines for a
25 variety of species, including the western pond turtle, the peregrine falcon, and the Larch
26 Mountain salamander (Rodrick and Milner, 1991);
 - 27 c. Physical characteristics of the subject parcel and vicinity, including topography and
28 vegetation;
 - 29 d. Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site; and
 - 30 e. Existing condition of the wildlife area or site and the surrounding habitat and the useful life of
31 the area or site.
- 32 3. The wildlife protection process may terminate if the responsible official, in consultation with the
33 Washington Department of Fish and Wildlife, determines:
 - 34 a. The sensitive wildlife area or site is not active, or
 - 35 b. The proposed use would not compromise the integrity of the wildlife area or site or occur
36 during the time of the year when wildlife species are sensitive to disturbance.
- 37 4. If the responsible official, in consultation with the Washington Department of Fish and Wildlife,
38 determines that the proposed use would have only minor effects on the wildlife area or site that
39 could be eliminated through mitigation measures recommended by the state wildlife biologist or
40 by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the
41 applicant that describes the effects and measures needed to eliminate them. If the project
42 applicant accepts these recommendations, the responsible official will incorporate them into the
43 development review order and the wildlife protection process may conclude.
- 44 5. The project applicant shall prepare a wildlife management plan if the responsible official, in
45 consultation with the Washington Department of Fish and Wildlife, determines that the proposed
46 use would adversely affect a sensitive wildlife area or site and the effects of the proposed use
47 cannot be eliminated through site plan modifications or project timing.
- 48 6. The responsible official shall submit a copy of all field surveys and wildlife management plans to
49 Washington Department of Fish and Wildlife. The Washington Department of Fish and Wildlife
50 will have twenty (20) days from the date that a field survey or management plan is mailed to
51 submit written comments to the responsible official. The responsible official shall record and
52 address any written comments submitted by the Washington Department of Fish and Wildlife in
53 the land use review order. Based on the comments from the Washington Department of Fish and
54 Wildlife, the responsible official will make a final decision on whether the proposed use would be
55 consistent with the wildlife policies and guidelines. If the final decision contradicts the comments

submitted by the Washington Department of Fish and Wildlife, the responsible official shall justify how the opposing conclusion was reached. The responsible official shall require the applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

F. Wildlife Management Plans.

Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone. Wildlife management plans shall meet the following guidelines:

1. Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.
2. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.
3. The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components that are essential to maintain the long-term use and integrity of the wildlife area or site.
4. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.
5. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of the year when wildlife species are sensitive to disturbance. The following shall apply:
 - a. New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low intensity, non-destructive uses may be conditionally authorized in the core habitat.
 - b. Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally; provided, that they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.
6. Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve a no net loss of the integrity of the wildlife area or site. Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.
7. The applicant shall prepare and implement a three- ~~(3-)~~ year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. It shall include an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions. At the end of three (3) years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

G. New fences in deer and elk winter range.

1. New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The

- 1 areas fenced shall be the minimum necessary to meet the immediate needs of the project
2 applicant.
- 3 2. New and replacement fences that are allowed in winter range shall comply with the guidelines in
4 Specifications for Structural Range Improvements (Sanderson et. al., 1990), as summarized
5 below, unless the applicant demonstrates the need for an alternative design:
- 6 a. To make it easier for deer to jump over the fence, the top wire shall not be more than forty-
7 two (42) inches high.
- 8 b. The distance between the top two wires is critical for adult deer because their hind legs often
9 become entangled between these wires. A gap of at least ten (10) inches shall be maintained
10 between the top two wires to make it easier for deer to free themselves if they become
11 entangled.
- 12 c. The bottom wire shall be at least sixteen (16) inches above the ground to allow fawns to
13 crawl under the fence. It should consist of smooth wire because barbs often injure animals as
14 they crawl under fences.
- 15 d. Stays, or braces placed between strands of wire, shall be positioned between fences posts
16 where deer are most likely to cross. Stays create a more rigid fence, which allows deer a
17 better chance to wiggle free if their hind legs become caught between the top two wires.
- 18 3. Woven wire fences may be authorized only when it is clearly demonstrated that such a fence is
19 required to meet specific and immediate needs, such as controlling hogs and sheep.
- 20 4. Any fencing permanently erected within deer and elk winter range, as a result of an
21 emergency/disaster response, shall comply with Section 40.240.860(G)(2).
- 22
23

24 **40.240.870 ~~40.240.560~~ GENERAL MANAGEMENT AREA RARE PLANT REVIEW CRITERIA**

25

26 A. Sensitive Plants and Site Plans for Review Uses Near Sensitive Plants.

- 27 1. Proposed uses shall not adversely affect sensitive plants. "Sensitive plants" means plant species
28 that are
- 29 a. Endemic to the Columbia River Gorge and vicinity; or
- 30 b. Listed as endangered or threatened pursuant to federal or state endangered species acts; or
- 31 c. Listed as endangered, threatened, or sensitive by the Oregon – Washington Natural Heritage
32 program.
- 33 2. In addition to the information required in a site plans, site plans for uses within one thousand
34 (1,000) feet of a sensitive plant shall include a map prepared at a scale of one inch equals one
35 hundred (100) feet (1:1,200), or a scale providing greater detail.
- 36

37 B. Uses.

38 Uses allowed outright in rare plant areas are listed in Section 40.240.120.

39

40 C. Field Survey. A field survey to identify sensitive plants shall be required for:

- 41 1. Land divisions that create four or more parcels;
- 42 2. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping
43 facilities, boat ramps, and visitor information and environmental education facilities;
- 44 3. Public transportation facilities that are outside improved rights-of-way;
- 45 4. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or
46 greater, and
- 47 5. Communications, water and sewer, and natural gas transmission (as opposed to distribution)
48 lines, pipes, equipment, and appurtenances and other project related activities, except when all of
49 their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing
50 developed utility sites, that are maintained annually.
- 51 6. Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall
52 be conducted by a person with recognized expertise in botany or plant ecology hired by the
53 project applicant. Field surveys shall identify the precise location of the sensitive plants and
54 delineate a two hundred- (200-) foot buffer zone. The results of a field survey shall be shown on
55 the site plan map.

- 1
2 D. Uses not listed in Section 40.240.870(B) may be allowed within one thousand (1,000) feet of a
3 sensitive plant, when approved pursuant to Section 40.240.860(E), and reviewed under the
4 applicable provisions of Sections 40.240.800 through 40.240.900.
5
- 6 E. Uses that are proposed within one thousand (1,000) feet of a sensitive plant shall be reviewed as
7 follows:
8 1. Site plans shall be submitted to the Washington Natural Heritage Program by the responsible
9 official. The Natural Heritage Program staff will review the site plan and their field survey records.
10 They will identify the precise location of the affected plants and delineate a two hundred- (200-)
11 foot buffer zone on the project applicant's site plan. If the field survey records of the state heritage
12 program are inadequate, the project applicant shall hire a person with recognized expertise in
13 botany or plant ecology to ascertain the precise location of the affected plants.
14 2. The rare plant protection process may conclude if the responsible official, in consultation with the
15 Natural Heritage Program staff, determines that the proposed use would be located outside of a
16 sensitive plant buffer zone.
17 3. New uses shall be prohibited within sensitive plant species buffer zones, except those listed in
18 Section 40.240.870(B).
19 4. If a proposed use must be allowed within a sensitive plant buffer area in accordance with Section
20 40.240.150, the project applicant shall prepare a protection and rehabilitation plan pursuant to
21 Section 40.240.870(F).
22 5. The responsible official shall submit a copy of all field surveys and protection and rehabilitation
23 plans to the Washington Natural Heritage Program. The Natural Heritage Program staff will have
24 twenty (20) days from the date that a field survey is mailed to submit written comments to the
25 responsible official. The responsible official shall record and address any written comments
26 submitted by the Natural Heritage Program staff in the land use review order. Based on the
27 comments from the Natural Heritage Program staff, the responsible official will make a final
28 decision on whether the proposed use would be consistent with the rare plant policies and
29 guidelines. If the final decision contradicts the comments submitted by the Natural Heritage
30 Program staff, the responsible official shall justify how the opposing conclusion was reached.
31
- 32 F. Protection and Rehabilitation Plans.
33 Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a
34 new use that occurs within a sensitive plant buffer zone as the result of a variance. Protection and
35 rehabilitation plans shall meet the following guidelines:
36 1. Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist
37 hired by the project applicant.
38 2. Construction, protection, and rehabilitation activities shall occur during the time of the year when
39 ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will
40 be maximized.
41 3. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent
42 practicable. Replacement is used here to mean the establishment of a particular plant species in
43 areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds,
44 cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site
45 as practicable. The project applicant shall ensure that at least seventy-five percent (75%) of the
46 replacement plants survive three (3) years after the date they are planted.
47 4. Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be
48 protected and maintained. Appropriate protection and maintenance techniques shall be applied,
49 such as fencing, conservation easements, livestock management, and noxious weed control.
50 5. Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a
51 natural condition.
52 6. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts
53 shall be implemented immediately after the plants and their surrounding habitat are disturbed.
54 7. Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:
55 a. Describe the biology of sensitive plant species that will ~~will~~ be affected by a proposed use.

- b. Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.
- c. Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.
- d. Include a three- (3-) year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the responsible official an annual report that documents milestones, successes, problems, and contingency actions.

G. Sensitive Plant Buffer Zones.

1. A two-hundred- (200-) foot buffer zone shall be maintained around sensitive plants. Buffer areas shall remain in an undisturbed, natural condition.
2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, man-made features, or natural plant habitat boundaries negate the need for a two hundred- (200-) foot radius. Under no circumstances shall the buffer zone be less than twenty-five (25) feet.
3. Requests to reduce buffer areas shall be considered if a professional botanist or plant ecologist hired by the project applicant:
 - a. Identifies the precise location of the sensitive plants;
 - b. Describes the biology of the sensitive plants; and
 - c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.
4. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.
5. The responsible official shall submit all requests to reduce sensitive plant species buffer areas to the Washington Natural Heritage Program. The Natural Heritage Program staff will have twenty (20) days from the date that such a request is mailed to submit written comments to the responsible official. The responsible official shall record and address any written comments submitted by the Washington Natural Heritage Program in the development review order. Based on the comments from the Washington Natural Heritage Program, the responsible official will make a final decision on whether the reduced buffer area is justified. If the final decision contradicts the comments submitted by the Natural Heritage Program staff, the responsible official shall justify how the opposing conclusion was reached.

40.240.880 ~~40.240.570~~ SPECIAL MANAGEMENT AREA NATURAL RESOURCE REVIEW CRITERIA

A. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.

B. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas).

1. All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (1)(b)(1) and (2) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.
 - a. All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.
 - b. Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. The following buffer zone widths shall be required:
 - (1) A minimum two hundred- (200-) foot buffer on each wetland, pond, lake, and each bank of

- 1 a perennial or fish bearing stream, some of which can be intermittent.
2 (2) A fifty- (50-) foot buffer zone along each bank of intermittent (including
3 ephemeral), non-fish bearing streams.
4 (3) Maintenance, repair, reconstruction and realignment of roads and railroads within their
5 rights-of-way shall be exempted from the wetlands and riparian guidelines upon
6 demonstration of all of the following:
7 (a) The wetland within the right-of-way is a drainage ditch not part of a larger
8 wetland outside of the right-of-way;
9 (b) The wetland is not critical habitat; and
10 (c) Proposed activities within the right-of-way would not adversely affect a wetland
11 adjacent to the right-of-way.
12 c. The buffer width shall be increased for the following:
13 (1) When the channel migration zone exceeds the recommended buffer width, the buffer
14 width shall extend to the outer edge of the channel migration zone.
15 (2) When the frequently flooded area exceeds the recommended riparian buffer zone width,
16 the buffer width shall be extended to the outer edge of the frequently flooded area.
17 (3) When an erosion or landslide hazard area exceeds the recommended width of the
18 buffer, the buffer width shall be extended to include the hazard area.
19 d. Buffer zones can be reconfigured if a project applicant demonstrates all of the following:
20 (1) integrity and function of the buffer zones is maintained;
21 (2) total buffer area on the development proposal is not decreased;
22 (3) width reduction shall not occur within another buffer; and
23 (4) buffer zone width is not reduced more than fifty percent (50%) at any particular
24 location.
25 Such features as intervening topography, vegetation, man made features, natural plant or
26 wildlife habitat boundaries, and flood plain characteristics should be considered.
27 e. Requests to reconfigure buffer zones shall be considered if an appropriate professional
28 (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:
29 (1) identifies the precise location of the sensitive wildlife/plant or water resource;
30 (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water
31 resource; and
32 (3) demonstrates that the proposed use will not have any negative effects, either direct or
33 indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their
34 long-term survival or water resource and its long term function.
35 f. The responsible official shall submit all requests to re-configure sensitive wildlife/plant or
36 water resource buffers to the Forest Service and the appropriate state agencies for review.
37 All written comments shall be included in the project file. Based on the comments from the
38 state and federal agencies, the responsible official will make a final decision on whether
39 the reconfigured buffer zones are justified. If the final decision contradicts the comments
40 submitted by the federal and state agencies, the responsible official shall justify how the
41 opposing conclusion was reached.
42 (1) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant
43 species of the Columbia River Gorge.
44 (2) The applicant shall be responsible for identifying all water resources and their
45 appropriate buffers.
46 (3) Wetlands Boundaries shall be delineated using the following:
47 (a) The approximate location and extent of wetlands in the Scenic Area as shown on the
48 National Wetlands Inventory (U. S. Department of the Interior, 1987). In addition, the
49 list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.
50 (b) Some wetlands may not be shown on the wetlands inventory or soil survey maps.
51 Wetlands that are discovered by the local planning staff during an inspection of a
52 potential project site shall be delineated and protected.
53 (c) The project applicant shall be responsible for determining the exact location of a
54 wetlands boundary. Wetlands boundaries shall be delineated using the procedures
55 specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line

- edition)'.
(d) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.
2. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.
 3. The responsible official may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the responsible official shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.
 4. Buffer zones shall be undisturbed unless the following criteria have been satisfied:
 - a. The proposed use must have no practicable alternative as determined by the practicable alternative test. Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.
 - b. Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:
 - (1) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question;
 - (2) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project; and
 - (3) The proposed project minimizes the impacts to the wetland.
 - c. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.
- C. Wildlife and Plants.
1. Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within one thousand (1000) feet of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan including all Priority Habitats listed in this chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.
 2. The responsible official shall submit site plans (of uses that are proposed within one thousand (1,000) feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service, the Washington Department of Fish and Wildlife for wildlife issues and the Washington Natural Heritage Program for plant issues.
 3. The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:
 - a. Identify/verify the precise location of the wildlife and/or plant area or site;
 - b. Determine if a field survey will be required;
 - c. Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season; and
 - d. Delineate the undisturbed two hundred- (200-) foot buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.
 - (1) Buffer zones can be reconfigured if a project applicant demonstrates all of the following:
 - (a) integrity and function of the buffer zones is maintained;

- (b) total buffer area on the development proposal is not decreased;
 - (c) width reduction shall not occur within another buffer; and
 - (d) buffer zone width is not reduced more than fifty percent (50%) at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.
 - (2) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant:
 - (a) identifies the precise location of the sensitive wildlife/plant or water resource;
 - (b) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource; and
 - (c) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.
 - (3) The responsible official shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the responsible official will make a final decision on whether the reduced buffer zones is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the responsible official shall justify how the opposing conclusion was reached.
4. The responsible official, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:
 - a. Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Washington Department of Fish and Wildlife technical papers that include management guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner, 1991).
 - b. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
 - c. Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.
 - d. Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.
 - e. In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.
 - f. The site plan is consistent with the Washington state guidelines when they become finalized.
 - g. The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.
 - h. The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.
 - i. Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed in Table 40.240.880-1. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.
5. The wildlife/plant protection process may terminate if the responsible official, in consultation with the Forest Service and Washington Department of Fish and Wildlife, ~~state wildlife agency~~, or Heritage program, determines:
 - (a) the sensitive wildlife area or site is not active; or
 - (b) the proposed use is not within the buffer zones and would not compromise the integrity of the

wildlife/plant area or site; and

(c) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications).

If the project applicant accepts these recommendations, the responsible official shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

6. If the measures in this section fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test in subsection (E) below by preparing and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

Table 40.240.880-1. Priority Habitats

Priority Habitats	Criteria
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

7. The responsible official shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision. Based on the comments from

the state and federal wildlife agency/heritage program, the responsible official shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the responsible official shall justify how the opposing conclusion was reached.

8. The responsible official shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

D. Soil Productivity.

1. Soil productivity shall be protected using the following guidelines:
 - a. A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
 - b. New developments and land uses shall control all soil movement within the area shown on the site plan.
 - c. The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed fifteen percent (15%) of the project area.
 - d. Within one year of project completion, eighty percent (80%) of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has eighty percent (80%) vegetative cover.

E. Practicable Alternative Test.

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

1. The basic purpose of the use cannot be reasonably accomplished using one (1) or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and sites.
2. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and sites.
3. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

F. Mitigation Plan.

1. A mitigation plan shall be prepared when:
 - a. The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites); and
 - b. There is no practicable alternative (subsection (E) above).
2. In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).
3. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.
4. The applicant shall submit the mitigation plan to the responsible official. The responsible official shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If

- the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the responsible official shall justify how it reached an opposing conclusion.
5. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.
 6. Mitigation plans shall include maps, photographs, and text. The text shall:
 - a. Describe the biology and/or function of the sensitive resources (e.g. wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.
 - b. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.
 - c. Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).
 - d. Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.
 - e. Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are not alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.
 7. At a minimum, a project applicant shall provide to the responsible official a progress report every three (3) years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.
 8. A final monitoring report shall be submitted to the responsible official for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The responsible official shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the responsible official in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.
 9. Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:
 - a. Restoration and enhancement efforts shall be completed no later than one (1) year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
 - b. All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five (5) years, at least seventy-five percent (75%) of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.
 - c. Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

- d. If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted; provided, that no net loss of sensitive resource functions occurs, and further provided that the responsible official, in consultation with the appropriate State and Federal agency, determines that such substitution is justified.
- e. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least seventy-five percent (75%) percent of the replacement plants survive three (3) years after the date they are planted.
- f. Non-structural controls and natural processes shall be used to the greatest extent practicable:
- (1) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.
 - (2) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.
 - (3) Fish passage shall be protected from obstruction.
 - (4) Restoration of fish passage should occur wherever possible.
 - (5) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.
 - (6) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.
 - (7) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.
 - (8) Stream bank and shoreline stability shall be maintained or restored with natural vegetation.
 - (9) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed:
Restoration: 2:1
Creation: 3:1
Enhancement: 4:1
- g. Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for five (5) consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.
- h. Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in subsection (9)(f)(9). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

**40.240.890 40-240.580 GENERAL MANAGEMENT AREA RECREATION RESOURCE REVIEW
CRITERIA**

The following uses may be allowed within designated Recreation Intensity Classifications, as delineated on the Columbia River Gorge National Scenic Area Management Plan Recreation Intensity Classifications map, subject to compliance with Sections 40.240.890(D) and (E).

A. Recreation Intensity Class 1 - Very Low Intensity:

1. Parking areas for a maximum of ten (10) cars for any allowed uses in Recreation Intensity Class 1;
2. Trails for hiking, equestrian and mountain biking use;
3. Pathways for pedestrian and bicycling use;
4. Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use);
5. Scenic viewpoints and overlooks;
6. Wildlife/botanical viewing and nature study areas;
7. River access areas;
8. Simple interpretive signs and/or displays, not to exceed a total of fifty (50) square feet;
9. Entry name signs not to exceed ten (10) square feet per sign;
10. Boat docks, piers or wharves;
11. Picnic areas; and
12. Rest-rooms/comfort facilities.

B. Recreation Intensity Class 2 - Low Intensity:

1. All uses permitted in Recreation Intensity Class 1;
2. Parking areas for a maximum of twenty-five (25) cars, including spaces for campground units, to serve any allowed uses in Recreation Intensity Class 2;
3. Simple interpretive signs and displays, not to exceed a total of one hundred (100) square feet;
4. Entry name signs not to exceed twenty (20) square feet per sign;
5. Boat ramps, not to exceed two lanes; and
6. Campgrounds for twenty (20) units or less, tent sites only.

C. Recreation Intensity Class 3 - Moderate Intensity:

1. All uses permitted in Recreation Intensity Classes 1 and 2;
2. Parking areas for a maximum of seventy-five (75) cars, including spaces for campground units, for any allowed uses in Recreation Intensity Class 3;
3. Interpretive signs, displays and/or facilities;
4. Visitor information and environmental education signs, displays or facilities;
5. Entry name signs not to exceed thirty-two (32) square feet per sign;
6. Boat ramps, not to exceed three (3) lanes;
7. Concessions stands, pursuant to applicable policies in Chapter 4, Part I of the Management Plan; and
8. Campgrounds for fifty (50) individual units or less for tents and/or recreational vehicles, with a total density of no more than ten (10) units per acre (density to be measured based on total size of the recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the individual campground units or parking area maximums allowed as described herein.

D. Approval Criteria for Recreation Uses.

All proposed recreation projects outside of Public Recreation zones shall comply with Sections 40.240.800 through 40.240.900, and shall satisfy the following:

1. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "compatible recreation use" guideline for the landscape setting in which the use is located.
2. For proposed recreation projects in or adjacent to lands zoned Gorge Large-Scale or Small-Scale Agriculture, or Gorge Small Woodland:

- a. The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of on-site buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.
 - b. A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands zoned Gorge Large-Scale or Small-Scale Agriculture or Gorge Small Woodland.
3. For proposed projects including facilities for outdoor fires for cooking or other purposes or proposed campgrounds: The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshal) is readily available to the proposed facility, either through connection to a community water system or on-site wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities. In addition, in order to provide access for fire-fighting equipment, access drives shall be constructed to a minimum of twelve (12) feet in width and a maximum grade of twelve percent (12%). Access drives shall be maintained to a level that is passable to fire-fighting equipment.
 4. Trail or trailhead projects shall comply with applicable trails policies in the Management Plan.
 5. For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries: compliance with applicable "River Access and Protection of Treaty Rights" objectives in the Management Plan.
 6. For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries: compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation in the Management Plan.
 7. For proposed projects which include interpretation of natural or cultural resources: A demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.
- E. Facility Design Guidelines for All Recreation Projects.
1. Recreation facilities which are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines contained herein, as long as such facilities comprise no more than one-third of the total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.
 2. The facility design guidelines contained herein are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. To be considered a separate facility from other developments or improvements within the same Recreation Intensity Class, recreation developments or improvements must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).
 3. Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and utilize topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall, be sited and set back sufficiently from bluffs so as to be visually subordinate as seen from key viewing areas.
 4. Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and utilized to screen parking areas and campsites from key viewing areas and satisfy requirements for perimeter and interior landscaped buffers.
 5. Parking areas providing over fifty (50) spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.
 6. Lineal frontage of parking areas and campsite loops to Scenic Travel Corridors shall be minimized to the greatest extent practicable.

7. Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.
8. Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.
9. Exterior lighting shall be shielded, designed and sited in a manner which prevents such lighting from projecting off-site or being highly visible from key viewing areas.
10. Innovative designs and materials which reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduce required minimum interior or perimeter landscaped buffers. Upon determination that potential visual impacts have been substantially reduced by use of such designs and materials, the responsible official may allow either reductions in required minimum interior or perimeter landscape buffers up to fifty percent (50%) of what would otherwise be required, or additional parking spaces not to exceed ten percent (10%) of what would otherwise be permitted.
11. A majority of trees, shrubs and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur (landscape setting design guidelines specify lists of appropriate species).
12. All structures shall be designed such that height, exterior colors, reflectivity, mass and siting result in the structures blending with and not noticeably contrasting with their setting.
13. Landscape buffers around the perimeter of parking areas accommodating more than ten (10) vehicles shall be provided. Minimum required widths are five (5) feet for twenty (20) vehicles or less, twenty (20) feet for fifty (50) vehicles or less, thirty (30) feet for one hundred (100) vehicles or less, and forty (40) feet for two-hundred fifty (250) vehicles or less.
14. Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas over fifty (50) spaces in size. The minimum width of interior landscaped buffers between each parking lot of fifty (50) spaces or less shall be twenty (20) feet.
15. Within required perimeter and interior landscaped buffer areas, a minimum of one (1) tree of at least six (6) feet in height shall be planted for every ten (10) lineal feet as averaged for the entire perimeter width. A minimum of twenty-five percent (25%) of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover and other plant materials.
16. Minimum required perimeter landscape buffer widths for parking areas or campgrounds may be reduced by as much as fifty percent (50%), at the discretion of the responsible official, if existing vegetation stands and/or existing topography are utilized such that the development is not visible from any key viewing area.
17. Grading or soil compaction within the drip line of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.
18. All parking areas and campsites shall be set back from Scenic Travel Corridors, and the Columbia River and its major tributaries at least one hundred (100) feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from Scenic Travel Corridors shall be measured from the edge of road pavements.
19. Project applicants shall utilize measures and equipment necessary for the proper maintenance and survival of all vegetation utilized to meet the landscape guidelines contained herein, and shall be responsible for such maintenance and survival.
20. All parking areas shall be set back from property boundaries by at least fifty (50) feet. All campsites and associated facilities shall be set back from property boundaries by at least one hundred (100) feet.

1 **40.240.900 ~~40.240.590~~ SPECIAL MANAGEMENT AREA RECREATION RESOURCE REVIEW**
2 **CRITERIA**
3

- 4 A. The following shall apply to all new recreation developments and land uses in the Special
5 Management Area:
- 6 1. New developments and land uses shall not displace existing recreational use;
 - 7 2. Only natural resource-based recreation shall be allowed;
 - 8 3. Recreation resources shall be protected from adverse effects by evaluating new
9 developments and land uses as proposed in the site plan. An analysis of both on and off site
10 cumulative effects shall be required;
 - 11 4. New pedestrian or equestrian trails shall not have motorized uses, except for emergency
12 services;
 - 13 5. Mitigation measures shall be provided to preclude adverse effects on the recreation resource;
 - 14 6. The facility guidelines contained in this section are intended to apply to individual recreation
15 facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or
16 grouping of recreational developments or improvements located in relatively close proximity to
17 one another. Recreation developments or improvements to be considered a separate facility from
18 other developments or improvements within the same Recreation Intensity Class must be
19 separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access
20 roads); and
 - 21 7. New development and reconstruction of scenic routes (see Part III, Chapter I of the Management
22 Plan) shall include provisions for bicycle lanes.
- 23
- 24 B. ~~SMA Special Management Areas~~ Recreation Intensity Class Guidelines.
- 25 1. Recreation Intensity Class 1 - Very Low Intensity Emphasis is to provide opportunities for
26 semi-primitive recreation opportunities:
 - 27 a. Permitted uses are those in which people participate in outdoor activities to realize
28 experiences such as solitude, tension reduction, and nature appreciation.
 - 29 b. The maximum site design capacity shall not exceed thirty-five (35) people at one time on the
30 site. The maximum design capacity for parking areas shall be ten (10) vehicles.
 - 31 c. The following uses may be permitted:
 - 32 (1) Trails and trailheads;
 - 33 (2) Parking areas;
 - 34 (3) Dispersed campsites accessible only by a trail;
 - 35 (4) Viewpoints and overlooks;
 - 36 (5) Picnic areas;
 - 37 (6) Signs;
 - 38 (7) Interpretive exhibits and displays; and
 - 39 (8) Rest-rooms.
 - 40 2. Recreation Intensity Class 2 - Low Intensity:
 - 41 a. Emphasis is to provide semi-primitive recreation opportunities.
 - 42 b. Permitted uses are those that provide settings where people can participate in activities such
43 as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.
 - 44 c. The maximum site design capacity shall not exceed seventy (70) people at one time on the
45 site. The maximum design capacity shall be twenty-five (25) vehicles.
 - 46 d. All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class
47 2. The following uses may also be permitted:
 - 48 (1) Campground with vehicle access;
 - 49 (2) Boat anchorages designed for no more than ten (10) boats at one time; and
 - 50 (3) Swimming areas.